

Closed Caption Log, Council Meeting, 05/26/11

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Thank you all for coming. Today is the memorial day proclamation to the families of two local heros, those are army specialist carillo and marine sergeant george [indiscernible] both juniors. Both of these soldiers and marines were killed in action serving in iraq. Ladies and gentlemen, please stand for the presentation of colors by the first BATTALION, 23rd MARINE Division and the singing of our national anthem, by ms. pansy johnson. Present the colors. oH, say can you see, by the dawn's early light What so prOUDLY we hailed, at the twilight's last gleaming? Whose broad stripes and bright stars, through the perilous fight o'er the ramparts we watched, were so gallantly streaming? And the rockets' red glare, the bombs bursting in air gave proof through the night, that our flag was still there. O, say does that star-spangled banner yet .. O'er the land of the free and the home of the brave. [Applause]

ms. pansy johnson. Please remain standing by the invocation by army chaplain steven vaughan. Would you please join me, father, today we pause to honor, remember and say thank you to all of those who served. Especially those who paid the ultimate sacrifice and to their families who know all so well the pain of the absence of a loved one. We cannot pay the debt we owe these patriots with mere words, but we can strive and ensure their sacrifices are not forgotten or given in vain. We pray that the council might have the wisdom to lead and direct, to make decisions that will ensure the blessings so costly to so many will not have been in vain. As always, we ask god bless america and god bless texas, in your name we ask, amen.

Amen.

Mayor Leffingwell: Please be seated.

Mayor Leffingwell: On MONDAY, MAY 30th, Americans around the nation will celebrate memorial day. Since this holiday was first observed by the way it was originally called decoration day. FIRST OBSERVED ON MAY 5th, 1868, We have set aside this day to remember and pay tribute to those who have sacrificed and died in service to their country on the field of battle. Kennedy once said that a nation reveals itself -- a nation reveals itself not only by the men and women it produces, but also by the men and women it honors and remember. Today we honor the men and women and especially the families left behind. I would now ask that the families -- that the families please come forward to receive honors, families please come up here and stand with me.

Thank you all. And we have a proclamation on behalf of the city of austin. be it money that whereas the city of austin joins the rest of america to honor the service, sacrifice, and memories of the selfless servicemen and women who have given their lives to protect our nation's liberty and whereas the city of austin humbly salutes the loved ones of our nation's fallen heros, we recognize their loss and realize that we enjoy freedom today because of their family members courageous service to our great nation. And whereas the city of austin applauds the patriotic spirit of its citizens and encourages all to pay tribute with us today to army specialist rafael tj carillo, junior and ullo junior, this memorial day weekend. Now, therefore, I lee leffingwell, mayor of the city of austin, texas, in conjunction with memorial day, do hereby proclaim may 26th, 2011, AS THE CITY OF Austin's day of remembrance in austin, texas.

Congratulations to all of you. Thank you.

Mayor Leffingwell: Thanks again to all of you, now we'll hear a rendition of amazing grace from the pipe and drum corps. [🎵 Music playing 🎵]

please stand for the sounding of taps.

Retire the colors.

Thank you, this concludes our ceremony, may god bless all of these family members here today and all of the servicemen we honor who have lost their lives o the field of battle and may god bless the united states of america. Thank you very much.

A quorum is present so I'll call to order this meeting of the austin city council on thursday, may 26th, 2011, MEETING IN THE Council chambers, austin city hall, 301 west second street, austin, texas. to begin with our changes and corrections to today's 8, is postponed indefinitely. 14 has several changes. First is change -- delete 4, so it reads change order no. 4. Delete the amount after 94%, add 1.63 -- 51.63%. Delete the number .86. Insert 75, 966.40. Delete 104315.86. Delete the number 1,177,587.86. And add the number \$1,148,725.51. 64 is related to 66 and so those two will be considered together. 65 is related to item 67. So likewise those two items will be considered together. Our current time certain 30, we'll have a morning briefing on the mueller project. 00 noon our general citizens communications. , we'll take up our zoning matters. , public hearings. 30 live music and proclamations and the musician for today is david ramirez. The consent items for today are items 1 through 78 with several exceptions, which i will note. 72, which are appointments to our boards and commissions and waivers. 72 will remain on consent. To our housing authority of tera duncan hall is mayor leffingwell nominee, as is enrique henry flores and thelma finell, waivers for the comprehensive plan citizens advisory task force to approve a waiver of the attendance requirement in section 2-1-26 of the city code are jennifer mcphail's service on the comprehensive plan citizens advisory task force, this waiver includes absences through today's date. For the electric utility commission we're approving a waiver of the attendance requirement of 2-1-26 of the city code for phillip [indiscernible] service on the electric utility commission, waiver includes absences through today's date. And for the waterfront planning advisory board, approve a way of the attendance requirements in section 2-1-26 of the city code for [indiscernible] service on the waterfront planning advisory board, the waiver includes absences through today's date. Show myself, mayor leffingwell, recused on item no. 16. The following items have been pulled off the consent. Will be considered separately. 18, is pulled off consent by councilmember cole. 19, will be heard after the mueller briefing. Number 79 briefing. 22 will be heard after a brief presentation bylaw. Items number 24 and 25 will be considered after the discussion in executive session. Items 30, 75, and 76 are pulled off the consent by councilmember bill spelman 34 pulled off consent by councilmember morrison. Those are all of the items that I have pulled off consent agenda. Are there any additional items from councilmembers? We have one citizen who wishes to speak on item no. 2, Which will remain on the consent agenda for now. Andrew mcfarlane signed up neutral, welcome, you have three minutes.

Thank you, mayor and council, I sure that I can speak after that emotional opening, I know that I can hardly see, thank you very much. I'm an degree mcfarland with data foundry. We have a 250,000 square foot master planned data center and the only purpose built carrier neutral data center in central texas region. Water, fiber, and power each come from independent diverse feeds protecting against outages. Power will be independently fed from two substations with an end to end underground power feed. You can tell that electricity and related costs are very important to us. We're also members of the local organization c care about 25 or 30 of austin's largest employers. I'm an alternate for the commercial medium large class for the public involvement committee and have attended all of the meetings. There have been times when the primary representative has been unavailable so i have served as the primary for several meetings. I have submitted a resolution for council's consideration that is to include a more active role from the picks that have been meeting since january. First, I want to thank austin energy and the city for making the meetings and excellent content available to all of us on

the public involvement committee. However, I feel we'll be completing the rate making 101 series on June 1st and will no longer be involved as a group in the application phase of the rate case. All of the rates that have been discussed at the PIC meetings have been based on cost of service numbers that have not been closely vetted by anyone other than Austin Energy. The changes in the resolution I've brought to you today ask if the EUC to designate the PIC as the representatives of the rate classes and the stakeholder groups that are already mentioned in the original resolution. The revised resolution will also provide us with the opportunity to continue to ask detailed questions and have access to materials related to the rate filings packages that will allow us to do our due diligence and make recommendations to the EUC and Council on real rates based on the true cost of service. This was the opportunity provided to the task force and the resource plan and we believe that this rate case is at least as important as that plan. The Council adopted the affordability matrix and without some series scrutiny of the final rates it will be difficult to make an apples to apples comparison of the current rates and the rates that are adopted by Council as a result of this case. Again, Council, I want to say that the process we've gone through so far has been an excellent course in rate making. We also believe Austin Energy is headed in the right direction by unbundling their rates. We ask that we be given the opportunity as a committee to follow through on the process. Council, I've discussed the items in this resolution with many of the PIC members and no one has objected to the changes that we're proposing. Thank you for your time and attention.

Thank you.

I will entertain a motion on the consent agenda. Mayor pro tem moves approval. Seconded by Councilmember Cole. Discussion? All in favor say aye? Aye.

Opposed say no. Passes on a vote of 7-0. 18 pulled by Councilmember Cole.

Cole: Mayor, I just had a couple of questions of staff regarding this item. It has to do with the study of parking at the Mexican American Cultural Center which is located on Waller Creek and also very close to rainy street and I just had a couple of questions. Rain. Good morning, Howard.

Good morning, Howard Last Russ, public works -- Lazerus public works.

Can you tell me how this item will fit into our plans for a parking enterprise?

The copy of work really addresses the MAC property to address Pard's concerns about being able to utilize this facility for their event and have adequate parking and what the capacity of a parking deck, should it be built and what it should look like. So the output that comes from those studies will feed into a larger study of the area and parking enterprise. I will let Rob address those parts of it.

Thank you, Rob Spiller, transportation director. The study that's being contemplated through this resolution is to define what, as Howard says, the facility of the MAC needs. As the parking enterprise or the parking department looks at the total needs of the district. Very simplified, we'll add those to what the MAC needs, see if there's any overlap and together that will define the opportunity for a combined parking facility in that area. The studies as Howard explained are compatible. We add them together.

That's what I wanted to make sure that we were doing, because I know that we need to take a comprehensive approach and in particular we need a lot of focus on design. We don't want to have a large parking garage overlooking the creek and I know that y'all understand that. But I wanted to bring it to your attention.

Absolutely. And that's -- that's really what this initial study contemplates is defining from a facilities perspective what's needed, what a design might look like and we will add that into the larger demand

study.

We will take into account that area and the entire waller creek district.

Yes, I know that's hot on their minds.

Cole: Okay. I move approval.

Mayor Leffingwell: Councilmember cole moves to 18, seconded by councilmember spelman. Discussion? Those in favor say aye? Opposed no. Passes on a vote of 7-0. I think we can go to item no. 22 now. [Indiscernible] give a brief explanation of the settlement proposal.

Good morning, I'm chris edwards with the law department. 22 requesting that council approve settlement of a personal injury lawsuit lewis oliver and karen hayden versus the city of austin. This was discussed during the may 10th work session. A lawsuit was filed against the city by plaintiff lewis oliver seeking compensation for severe injuries suffered IN A MAY 29th, 2010 Collision. Officer damon dunn was putting a traffic stop into his mobile data computer and rolled through a stop sign. oliver was on on a motorcycle and had the right-of-way. oliver was severely injured, hospitalized, and has ongoing medical issues, his medical bills far exceed the cap on damages under the texas tort claims act. The law department recommends that council approve settlement of this case for \$250,000. Do you have any questions?

Questions of staff?

Move approval, mayor.

Mayor Leffingwell: Councilmember cole moves approval of item 22. Seconded by councilmember morrison. Discussion? All in favor say aye? Aye.

Opposed say no. Passes on a vote of 7-0. Number -- these aren't related, 30 is not related to -- number 30 we can take up as next. By councilmember spelman.

Spelman: Thank you, mayor. Item 30 is a cleanup item of a -- an issue we took up a few weeks ago at crockett high school. It passed on concept and i believe one of the reasons that it passed on consent without discussion is because some of us had not read the fine print. Myself among them. When I read the fine print a couple of days later i realized somewhat to my horror that we had done something that I had no intention of doing. Over the last few weeks, several of us on the council have been working with the contractor, the other party to the memorandum of understanding to work out something which will give the other party what they need and also give the city council what it needs. I think that we've done that. Briefly what happened was as part of the memorandum of understanding between the city of austin and waller creek conservancy. It has a wonderful idea. That is to hold a design competition for waller creek area. The -- the idea behind the design competition is terrific. There's a limited number of things which the city is financially capable of putting on that creek right now. The design we have before us is part of the master plan, which we adopted in june of last year. Is limited by our financial capacity. And it represents the best ideas, of a couple of people, working as a consultancy as they develop the master plan. More important, however, the master plan has something very basic in it, which i think when we adopted it in june of 2011, 2010, we definitely wanted to keep. That is the thoughts and feelings of hundreds of austin citizens who worked with the consultant, worked for the citizens advisory council over a three year period to figure out not exactly what the design needs to look like, but what we want that creek to do, how we want it to behave, what we want the look and feel of the creek to be, what's the program for that design. The design itself that came out of the master plan is less important is one good approach to designing of those creek amenities, but not the only one, probably there's a good chance that we can do better with the design competition if we can engage the efforts of designers from all over

the world or at least all over the united states to take a look at our creek and see what they want. But that program part of that master plan I thought and many of us I believe thought was something which was critical and we needed to keep. So this is a cleanup item which -- which would cause us to undo the action that we I believe inadvertently did a few weeks ago. Which promised to -- to delete that master plan from the comprehensive plan of the city. And only to suspend action on it to keep it on the books, but to suspend action on it until we've actually seen the results of that design competition. With the function that we're going to incorporate elements of that design competition to the extent that it is consistent with the program part of the master plan and to the extent that we believe that it is better which I suspect very strongly it will be. I'm given to understand that don stassney, who is being asked to run the design competition for the conservancy [indiscernible] stassney could you come up and answer a couple of questions.

Good morning, I'm don stassney, competition manager for the waller creek design competition.

I'm given to understand that you have done have before?

Yes, this I have done over 50, national international design competitions over the years. And frankly I'm more excited about this one than any that I've been involved in.

Spelman: Tell us about it.

I am an architect and urban designer as well as a competition manager. I think that it's rare that you have an opportunity to basically change the face of the city through one of these processes 7 many times the competition might be for an icon, memorial, something like that. In this particular case, i think we are developing a -- a building on the work of the community and the input, some new ideas about how that part of the city could be structured. So it isn't just the creek. It's what the creek spawns as it goes out the next number of waves. So what we can expect from private development, what we can expect from connectivity going into east austin. How we can create this kind of structure through that part of the city. If I go back to one that you may -- a competition that you may know of is the oklahoma city memorial. In that one we tried to take this larger urban design context. Because we didn't want just the memorial sitting on that block where the building was, we really wanted to that be a building block of the city. What has come out of that competition based on our approach to it is a whole district around the memorial that has benefited from the design competition itself. It's that same kind of approach that we and the to use here in austin. We want to use here in austin.

Spelman: I actually described my understanding of the master plan as being -- really involving two parts. One of them what I have been thinking of is the architect's program. Here's what we want the creek to do to be for -- how the citizens of austin want to be able to use that creek. And other parts of that are designs which fit that program. And what I've suggested a few moments ago is part of that master plan which is designed is we should consider advisory until we can see what other designs might look like. Part of the master plan which is the program, which is hundreds of citizens saying here's what we want this creek to look like generally, more important what we want to be able to do in this creek, something which really ought to carry over in the design competition and ought to be an integral part of what the designers are responsive to. Does that fit your understanding.

Very much. I think the way you portrayed it earlier it's exactly right on. There's nothing about this process that -- where we do not want to honor the work that was done before, especially by the many citizens and the hours and hours they spent in that area. What we want to do in the design competition is create an environment for people to do their best work. As a part of that, let me give you kind of an analogy of things, how not to do it is to create kind of a dot to dot approach where you connect the dots going through it. Better way to do it is to create an overall corral. Let them get on the bucking horse, kind of run around the corral and have the fence around them, but to be able to have some freedom to operate it. So what we would intend to do is take the material that we already have and we've already given some drafts that you may have looked at to try to create a set of design principles that honor the

input that was before the program that was developing about what people want their creek to be. And what they want the -- the creek to affect. I like your word about how it should behave within the context of the overall city. And so that is creating an environment where we can get the very best design teams, like I stress teams because we don't see this as an individual. We see this as experts in architecture, landscape architecture, possibly civil engineering, professional artists, things like that. It might be a part of the overall team. To look and see what this place could be within that kind of program development. But this is not so specific to say that at certain intersections something will happen or there should be something within this particular area. The other thing that's important, I believe, in our materials that we begin to put together on this is the map of what we intend to look at. Or ask the designers to look at. We have a fuzzy edge around it. Because we want them to begin to say okay if we do such and such to the creek, what are the impacts of that going further out? The next levels, the next ways that go out. So in a way we are asking them to begin to define what the overall impact area of the creek is as well as give us specific designs for what would happen in the creek path itself.

So not giving them a blank slate, but not -- not giving them a bunch of dots to connect, but have in the middle where they know how it's supposed to behave and then have at it.

Correct. Then in the same way asking them to behave within that kind of construct.

I understand. When can we expect to see some of these designs?

We will start the process we're projecting right now in about mid september. And we will go through three separate stages. The first one will be asking for a portfolio of designers, to establish the design quality that we want within the overall competition. We will short list those down to a number, we will ask to put a team around them, technical team then will give them the capacity to continue on and to actually be able to execute the project. And then we will take that down to a short list and have those actually do designs. I think we will actually see the designs and have them out on -- on public display about may.

Spelman: We'll all have a chance to take a look at those designs?

Yes. We will have many places along the way where the public will be able to interact with the process. One of the most fun ones will be when we get down to the short list, we bring the last designers into town and give them a briefing but also let them -- we have what we call a meet your designer night as well. Where we get all of these egos up on a statement and let them have 10 minutes, 10 minutes only to talk about their past work. But it's a lot of fun. It's very entertaining. But also gives opportunities for citizens to come out and really get a sense of what they're about. And so it's meet your designer night, but it's also designers meet austin.

Terrific. So by may we'll have several opportunities to interact with the designers.

Right. We'll develop the exhibits in such a way that, one, they will be available on the net, but we would also hope that there would be at least one if not two exhibits that would be able to be moved around the community. So maybe go out into a shopping center for a couple of days or to a -- to a city -- to the city hall lobby or something like that, so people will be able to get a look at those -- able to get a look at those. We will also ask designers to come in and give a presentation of their proposals to the jury. The public will be invited to that, so they will be able to hear the presentations from the designer's themselves. So it will be a number of places where they can interact with the overall process.

Okay. So will we actually have a completed design, the jury's award would be made sometime in june or july?

I think that we would come to, yes, it would june, july, in that time frame.

Spelman: Thank you, mr. Stassney. I appreciate it. I'm very, very happy that you are willing to work with the conservancy, with the city of austin in doing this design competition, I very much look forward to seeing what it is that you come up with.

Thank you all very much and thank you for taking the time today.

Mayor Leffingwell: [Indiscernible] [microphone low]

Shade: I intend to support it, too. Appreciate the work that's gone on. It's sometimes the devil in the details and the rush to get something done. That was a -- that was -- I'm pleased with the way that we're addressing that today. I think that it's really important to recognize that even in the -- what we did pass, there was a process in place for anybody that's entering the design contest to have to certify that they've read, embraced and adopted the recommendations of the task force, that was also part of what we had approved and that continues from the comments that you said.

One of the things that you said, along with councilmember cole and councilmember riley, your comparison of the size of the space that we're talking about with central park. Could you say that, explain that widths and --

well, I think that if you -- there is the physical size and space of it, which is probably much, much longer than -- than -- or about the same size as central park. But I think that it's -- that it's -- you think about the history of central park and how it occurred, basically it was done out in pasture land when it was first put in place. But now over the years, it has become kind of a central feature of the whole -- of new york and of that particular part of the area. Which is the home of the cultural institutions, number of residences and things like that. So in many ways, that's what I see this is all about is -- is this is an area of the city which could take some incentives to -- for both public and private development. But I see it as kind of a string of event, a string of pearls, string of explorations, a string of different kinds of activities along the creek. That -- that makes the creek a lot bigger than -- than the creek that it is.

I appreciate that. It's, you know, when you see the media coverage sometimes, they like to compare it to -- to san antonio's river walk and i think that we really need to be thinking more about central park and what it's done for -- what the role is that it plays in the middle of new york city. And they -- they also use the conservancy model for the city to be able to accomplish things that couldn't do without the private sector support. So I want us to keep that more in mind and I really appreciated the comments that you made in the meeting that I had attended a few weeks back. I also --

I would also say that I'm from portland, oregon by the way. Which is -- seems to be everybody in portland wants to go to austin. Everything from austin wants to go to portland. Very much sister-brother cities as the case may be. The renaissance of portland really occurred by the taking -- started out with a vision by the citizens of what they would like to see. The first action was to take the freeway off the river and make it a park. So that tie of open space and water is so fundamental to our cities and the way we make our cities. That -- that I think that this is an opportunity to be transformative within austin in that area, which then will benefit the entire city.

Shade: I want to thank those publicly thank because we didn't get to do that either at the meeting that we had where we adopted the item on consent without really digging into the details, those that have stepped up to lead the conservancy and the city staff that have made this really historic new kind of approach happen. So thank you. I look forward to supporting the item as well.

Motion on item 30. Councilmember morrison?

Morrison: Briefly i want to thank everybody involved, but in particular I want to thank the individuals with wall he could creek conservancy -- waller creek conservancy for them to see we were coming back and revisiting this, i especially appreciate their forbearance and patience to make somebody that is really good for everybody.

Spelman: If I also might add to the thanks city manager sue edward who made a situation which could have been really prickley and making it easy. This is the first time that [indiscernible] I move approval.

Councilmember spelman moves to approve item 30, i will second. Any discussion?

Cole: Mayor, I have a brief comment.

Mayor Leffingwell: Councilmember cole?

Cole: I would like to remind my colleagues and the public that councilmember bill spelman was chair of the waller creek advisory committee. So whenever there's anything inadvertent that happens, spelman is your go-to guy. But seriously I just want to thank him for the work in bringing the stakeholders -- not only from the conservancy but also members of the waller creek advisory committee, but beginning to lay the groundwork of how we will begin some of the public process and work with the conservancy to make that happen. It's only because we have private partners stepping up to the plate so that we have those choices. This will be our world class amenity where we get the opportunity to look at all of our many, many treasures and talents and I'm proud to second that motion and to begin thank councilmember spelman. Again thank councilmember spelman.

Mayor Leffingwell: [Indiscernible] further discussion? All in favor say aye? Opposed say no. Passes on a vote of 7-0.

Thank you, it's an honor to be before you today. I promise that I will be back with presents. 30 briefing on the mueller development.

Good morning, mayor, mayor pro tem, city manager, I'm kevin johns, director of economic growth and redevelopment services. With me is pam hepner the project manager for the mueller development. As you know, the mueller development is a -- is a world class one billion dollar urban village conceived by the city of austin as a partnership and a model for sustainability, affordability, economic development and diversity. I think you would be very pleased with the presentation today. To date mueller generated over \$6 million in property tax and sales tax revenues and -- and has over 3,000 employees. The presenters today will be greg weaver, executive vice-president of catellus development. Paul turner the executive director of facilities for aisd will be here, too. So I'm going to turn it over to greg and pam and I will be available to answer any questions that you may have. %.

Good morning, we were here two weeks ago to present, you had a very full agenda so we got bumped, which is okay. We were coming two weeks ago to give a briefing and today to talk about aisd. As kevin said we're going to combine our presentations into one today. I will try to go -- what we tried to do in the past is come and give a periodic briefing to the council about -- about the progress. How we're doing at mueller, what's going on. And that's what we're here today to talk about. And, you know, before i start, I go around the country, I actually was just at the urban land institute. Mueller is looked upon as probably one of the best public/private partnerships in the united states. And the city should be proud and as a partner, a true partner. It is not just a -- there's a -- an overuse of the term public/private partnership in the united states today. I think people use it to market it. This is truly a partnership. So catellus today gets a lot of accolades because we're the developer out there. We're implementing the city's project. And we're proud to do that and the city should be thanked and we probably don't do it enough as catellus is thanking the city for being such a great partner in the project. So with that, let me -- let me start, we always like to start off the presentation with a goal -- with the goals. This is just to reiterate everything that we do out there, we always try to look to the goals of does it fit within what mueller was

envisioned to be. This was prior to catellus being involved, it's first phase responsibility, east austin development. Diversity, affordability, neighborhood compatibility and sustainability. And as we go through this today, I think, you know, I'll try to highlight different components where we've been checking the box off and trying to do our best to -- to keep to the goals. A little bit of history because it's important to always revisit this. Before we were involved there was 18 years of community involvement. I think that is something that -- that again we kind of have the he is part on this project. The easy part on this project. The vision and the plan and the goals and the design guidelines and plan were put together before we were involved. It was a process again when I go around and talk about projects where you talk about a -- about a project like this, and the developer is kind of saying hey it was great because everything was put in place, you know, it wasn't ironclad, but it was put in place before we got involved, it's unique. It's something that frankly I think from the mueller process has worked very really and has been a huge success. And you can see on the slide here the community involvement started in 1984. And then we were selected in 2004 or 2002 rather, so there was a lot of public input there. Then ultimately the master development agreement signed in 2004. Part of the community participation here, this kind of is post the 18 years. This is when we got involved. Building up to the master development agreement and the ultimate master plan that was finalized as part of the master development agreement in the zoning were hundreds of meetings and probably thousands of hours with -- with different groups and organizations throughout the community addressing many of the issues. And, you know, we're going to continue that on an -- on an ongoing basis. Just a quick overview. There's -- you know, a total of 5500 homes planned, at mueller, 2 million square feet of commercial, 2 million of institution/medical, 140 acres of parks. Something that we like to note on this slide, it's a -- it evolves over time. In place, design guidelines in place, but continues to evolve and so this is kind of a mark that we, you know, that's on the plan today but it's something that it has a bit of an evolution. Multi-modal transit it's going to be a big deal we're going to be talking about the next 12 to 18 months months is the urban rail component. The red line has been -- this line and then another it actually went all the way TO BERKMAN AND 51st, HAS Always been contemplated at mueller, you know, again that predates us. That was contemplated. It was light rail. Previously today it's urban rail. Which we think is really important and the project has always designed the infrastructure, designed the communities, the street networks to contemplate the rail. The other important part i think from a multi-model transit is the pedestrian, the bike, you know, where it's not just an auto dependent environment, it's pedestrian friendly, bike friendly, actually looking at new bike initiatives out there, unique things brought to my attention just in the last couple of weeks that works more in doing out at mueller. To make it all around a true multi-model, then the computer rails within one mile here of the red line that we are working with capital metro on, express bus service that would come in and out of mueller to connect right up to the mlk red line station. Mueller now, where are we? There's five parks out there today. 75 Acres. You know, total parks. We show three miles of trails on there. I think if you add up all of the trails, all of the little circles and loops, it's a little bit closer to five to six miles. Then homes, actually something on the parks, we like to reiterate, too, they're public parks. Something unique that when you look at 140 acres of parks is the parks are open to everybody. And, you know, there's certain points because it's part of a new development and some new more suburban developments the parks are more private parks or hoa controlled parks. Something we're proud of. The city should be proud of these are wide open public parks, you know, the residents are using them, businesses are using them, all of the surrounding neighborhoods are using them. If you go out there on a weekend, it is packed, jam-packed with -- with folks from all around. So we're proud about that and again something the city should be proud of. On the residential front, 700 homes today, 441 apartments, 1100 families equates to about 3,000 people. And I'll talk about in the affordable housing update in a second. But it's a mixed income environment where the affordable homes are interdispersed with the market rate homes and i challenge people all the time to go out there and point out the affordable housing compared to the market rate house and it's not easily done. I have actually won a few bets on that driving around mueller. Then on the commercial front, you know, that one of the goals was the economic development. And today we're proud of -- probably the -- the two big highlights out there or three or four big highlights, there's two corporate headquarters. Seton being one of them and [indiscernible] being one of them, delavan children's hospital, the university of texas medical out there, about 3300 full-time jobs. Again from a diversity standpoint, they are at every income range, you know, from a minimum wage job up to a ceo or to a surgeon, and everything in between and from a live-work environment, many of those people are

living out at mueller which is exciting and walking to work or biking to work or something else, something we encourage on a regular basis. Sustainability, design, the whole project, I have another site here, this is more regarding the parks and the -- what we're doing out there. We did a partnership with the lady bird johnson wildflower years ago, one park out there specifically that we have the native plants, native grasses growing, using as kind of a research playground with the university of texas, our school of architecture with the lady bird johnson wildflower center. Actually bottom left-hand corner picture, we've had a few follow-ups out there. We had our landscape or contractor one day out there cutting and pulling weeds or we thought they were weeds while it was actually native grass that we planted. We are trying to prosper and grow out there and the community has gotten involved and the residents at mueller got involved, we call them the friends of mueller prairie where they go out there before the landscape contractors go out and rather than mow down all of the weeds, or the native grass, they are actually going and helping our landscape contractor preserve the grass and get the weeds out. So it's been a neat community partnership. Just the high point on this slide here. At the very again if partnership with austin energy green building, with the city, with the surrounding communities, there was a very high goal from sustainability. Both on all of the buildings out there, the design and the layout. And it is, this is definitely the highest concentration of green built buildings in central texas. We've been told it's may be the highest concentration in the united states. Both what's on the ground today in plan and it's something that the city and us get a lot of accolades on. We're hitting the standards high out there and we continue to do it. Mueller is in the leed neighborhood development pilot project and I'll talk a little bit about the pecan street project which is an experiment, you know, that i would like to call going on out there that's been a huge success. Here's a few facts. I'm not going to go through all of this. This is put together with austin energy, green building department of kind of water saved and energy saved. You know I like the little factoid at the bottom of the sheet here that show there's enough electricity saved that could power almost 1200 residents for a year and then the bottom one that talks about enough water 5 olympic sized swimming pools. It's something that again everybody should be proud of. This he is internationally recognized from it. It's only getting better. With the pecan street project out there, that you are all aware of, the pecan street is an organization that won a \$10 million grant department of energy to use mueller as a test -- a testing location to test out smart meters, you know, based on the internet, based on looking at all of the newest, latest and greatest technology that's available today or is currently being researched and it's actually we're -- the pecan street is bringing technology with austin energy into the houses to the existing residents and into the businesses and About 3300 full-time jobs. Again from a diversity standpoint, they are at every income range, you know, from a minimum wage job up to a ceo or to a surgeon, and everything in between and from a live-work environment, many of those people are living out at mueller which is exciting and walking to work or biking to work or something else, something we encourage on a regular basis. 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Department of energy is going to find the latest and greatest, whether it's smart meter, whether it's some different type of appliance or whatever it is, that's the latest and greatest for department of energy can start setting its standards and its goals to implement on a national basis. It's all happening at mueller. There's residents who are involved in this, their homes are opened up to doing all of this kind of research. Mueller has been a test bet for all of these different types of things, this is just the latest and greatest happening today. The residential, I talked about the mixed income. Every -- the pictures on the slide here show, we have lots of different types of homes and apartments out there. It all interdispersed with the affordable housing and market rate housing out we're extremely proud on a national scale this is being looked at. We have people fly in all around the country to look and understand how we're doing it and what's been done and again this was a goal in the early days way before we were involved from the community and city and it's been a huge success. Statistically, on that, on the affordable housing, you know, just to remind everyone, 25% of all of the homes that are affordable have to be affordable on a for sale basis at 80% to someone who makes 80% of median family income or below or on a rental basis to someone who makes 60% of median family income or below. So where we are today as a result there's 136 homes out there, that are affordable. There's 47 that are under construction right now. And on the rental side, there's 44 apartments out there today, there's 171 of the wildflower terrace of senior housing project that is under construction today, and then 30 more apartments will break ground in -- at the end of the year. I think the big thing on here is there was a goal, you know, when I talked about 80% of median family income below or 60% of median family income below, we've been able to achieve down to's low as 30% of median family income at mueller today. It's been because of everybody working together and coming up with some unique models, the mueller foundation, as a unique model. On the affordable housing for sale, we've actually been able to retain the affordable housing via the foundation. I won't get into the details on it. But it's been again a national model that's been looked at a how we've done it. It's taken a lot of hard work from a lot of people from both the city and the community to get there. Our diversity and m/wbe program. There's the diversity of jobs out there there that i have talked about, there's the guess community of home pricing out there, you know, from the homes to \$120,000 all the way up to just below a million dollars. There's the m/wbe businesses located out there, the bottom one here is we've been able to get a 21 and a half percent participation on a m/wbe on the infrastructure out there that equates about \$13 million of contract that have been left out there to m wbe contractors. Again, it's something that i think we've all worked hard on, working with the city. And the community to work on this. And, you know, we hope that the numbers only increase. Economic impact, I won't go through all of this. I think kevin johns speak a little bit about this. At full buildout a plan of \$30 million in sales tax, a billion dollar tax base, the jobs out there. Today what's exciting out there today is in total both on buildings and infrastructure, there's been about \$755 million of contracts or homes built or buildings built out there today. The next exciting part i think from austin's economy that in the next six to 12 months there's about \$150 million of projects. That are coming out of the grounds and some -- in some form or fashion out there. And so it's -- it's a huge economic driver what's happening out there in both bringing construction jobs and then permanent jobs and again from a various price points. Then with that, today there's about 300 local vendors and businesses that have been given contracts in various forms or fashion out at mueller. I won't go through all of these. But this is something again that the city I think you guys have a lot of these little trophies and statutes and plaques at city hall here today. But this project is looked at nationally and internationally and been a big success. And we get looked at, a lot of the educational institutions around the country, actually internationally we had a european contingent come about two months ago, look at mutual and they look at all fronts of what we're doing and are learning from what we're doing today. What's upcoming, what are the future prongs. I talked about some future

things, the wildflower terrace is under construction, a senior housing, age restricted community. Dma development is doing that. That is one that gets down for rentals down to 30% of median family income. It's under construction and should be the first move in should be november/december. The multi-family, there's 301 unit multi-family project that should break ground in the fourth quarter and then on the single family homicide of it, we have released our engineer on the next 220 lots at mueller. And have -- there's on top of that there's another 100 homes that are under construction in various forms of construction. So there's a lot going on at mueller. And a lot of activity. On the commercial side of it, there's a planned hotel, the market district is the grocery anchored center, probably the number one question that I get who is the grocer, when is a grocer going to be out there. There's nothing to announce today, but that is coming soon. The town center we've talked about the austin children's museum located to mueller. The austin play house locating there. And then other prospects within the town center that we're talking to today are hotels, cinemas and restaurants and the town center has a lot of momentum right now. And then the austin independent school district performing arts center that again there's an item on council today. And let me -- there's folks here from paul turner with the independent school district who is here today. Let me give you a little history on that. Because I think we're kind of deviating over now as a topic on that. The school district went out probably about a year, maybe even two years ago, and looked at a number of different sites. We ended up getting on a short list. We submitted two different sites, mueller ended up getting on the short list. And through a process they went and selected mueller as the location for the performing arts center. The process was a confidential project because it was a real estate matter and so it was brought to the mueller commission multiple times, always on the commission agenda, but we didn't talk specific about a location. We talked about it was in the newspaper, statesman that we were short listed, probably in the statesman about six to eight months ago. Then officially april 25th the school board of trustees selected mueller as the official site. So that happened on april 25th. Immediately upon that, although it had been talked about a lot, we started, us in conjunction with the city and with the school district, started what i would call ongoing discussions and community outreach from immediately on may 14th going to the windsor park neighborhood association, going to the mueller commission on may 17th and then going to the mueller neighborhood association this past SATURDAY ON MAY 21st, AND It was a school district going and just starting the discussion. And I think one of the important things when we talk about this, there's no design done. Nothing that's been laid out that's fixed. Less nothing that's hardwired on it. And that was important for us. We've heard that many times from the community on something like this, that there's -- there's the ability for a lot of community input, a lot of dialogue on what would go into the design, how it would be sited, where it would face, et cetera. The ongoing dialogue, we're just at the very beginning of this. We -- aisd has committed to an ongoing dialogue, both formal and informal. And having big, open community forums, there's actually run tentatively set to have at reagan high school, look at the design, transportation issues, look at the various issues on it. I say that we're at the very beginning of this. I do believe, we've talked about it a lot. It's a civic use. Which large mixed use projects having a performing arts center, we think it's very well suited for the mueller project if it's done right. You know, we know there's concerns and questions and other things talked about. Like any deal at mueller, the performing arts center must adhere the mueller design guidelines, must adhere to the zoning, which out there, must go through the new construction council, the architecture review committee and go through the full city development process. And so although there they are a governmental entity, no special exemption of what they would have to go through from a process. On top of that, the school district has agreed to go out in front of the community and really open it up for discussion and a dialogue. And to give you a little history of where we're here talking about it, I think that helps to give a little context. In the master development agreement that was signed in 2004, there's a requirement from -- you know by the city to catellus development that if we do a deal with a governmental entity, that we need city council action. And this relates to some history of some previous governmental entities looking at mueller back in the early 2000 to 2002 and a lot of it relates to kind of the tax base at mueller and out there and the master development agreement has a provision that allows us to sell land to non-tax paying or non-profit entities up to 10-acres. And this fits within that 10-acre -- the 10-acre parameters of what's required in the master development agreement. And so I -- we give the history because it was a little history in the early 2000's of why it was done. It's an allowed use from a zoning. It's, you know, uses like this, civic uses or performing arts centers or theaters were always contemplated. But again I think there's just -- there's a concern today just about doing it right. You know? And looking at -- at a number of different issues on it. So let me go to the next

slide here and talk a little bit about the location that's on here. The -- well, there's a couple of things. One, the -- on mueller boulevard, up and down mueller boulevard was always contemplated as a town center and the employment center where any type of use that is -- probably more commercial in nature and has heavier traffic would be located within the employment center/the town center. This site here is south of 51st, YOU KNOW, KIND OF Sandwiched between 51, barbara jordan boulevard and mueller boulevard. The -- the -- the related to the pac, it's a permitted use within this location. You know, we feel like it's a compatible use with the rest of the location. It needs to provide for sufficient access and circulation, which we agree with. This site here out of the multiple sites that were looked at was picked because it was a larger site, you know, that it allowed them to fit what they needed in their town center plus the necessary parking. They looked at the compatibility on the transit and this is the only site in mueller that is sited by three -- sided by three roads that have four lanes, something that is obviously a concern is the traffic. So from an access to and from i-35 or people coming from the west side of town, this is the -- literally the only site that has sided by three lanes, three sides of it that has four lanes. So it's something that we spent time thinking about and specifically the school district which they selected the site looked at that. With that said the number one question that we're getting right now. Probably three primary i objects we're talking about today, traffic number one, design of it, number two, then the uses that goes on to 51 from an active use that the back of the building don't just face on it's a dead use or something like that. We've heard that from the community. We agree with those concerns, you know, this is if you kind of look at it, being on barbara jordan boulevard and 51st there, I don't know if I would call it a gateway site but it's important from what is happening there. We have the same concerns.

what we've offered in the past few days is mueller has a transportation committee that is residents both in mueller and residents around mueller and it started around eight years ago because traffic has always been an issue out there. But using the mueller transportation committee as kind of the formal group that aid would work with as we're coming up with the details on it, but also come out to community both in these various forms to present what it is and really our goal and mueller's as always been a bit after consensus making community throughout, has come up with a consensus on the traffic. The other side of it i talked about a second ago was the design side of it. And aid is committed to kind of open up the books, I guess, if you want to say it from a design standpoint?

Mayor Leffingwell: You're almost totally into the discussion of the next item now.

Yes.

Mayor Leffingwell: So it would probably be more appropriate to discuss when we call that item up.

Perfect.

Mayor Leffingwell: If you want to conclude your briefing.

So that's the school district that's mueller. I think from a -- the overall state of affairs, it's again been a wonderful project. We weathered the storm. And a lot is happening out there today and we're excited about it. And again, thank you all, thank you to city staff, austin energy green building department, council. It's one of the ones in our company that people talk about as a winner all around. And it's been a huge success. And with things coming back today, we're kind of ramping things up and moving forward. So we're excited to continue our partnership and I'm available for questions. Thank you.

Mayor Leffingwell: Questions? Thank you. Apparently there's a a question. Councilmember morrison.

Morrison: I wanted to ask more about the pac. Should I wait?

Mayor Leffingwell: We're going to take that item up next.

Thank you. I'll be here for that too.

Mayor Leffingwell: All right. So now we will take up item number 19. Do we have speakers signed up? I think you've pretty much done a presentation on it. I think we can say that's been done. So we'll hear from our speakers. First is Rick Keravank. He is signed up against the item and welcome, you have three minutes.

Thank you, mayor. If I could I would ask the council to allow Jim Walker to speak. He will be representing the Mueller Commission first.

Mayor Leffingwell: That's fine. Jim Walker is signed up neutral and you have three minutes. Welcome.

Thank you for the time, council. I'm here, Ashley Fish.

Current chair of the Robert Mueller Airport Plan Advisory Commission could not be here today, so I'm representing our discussion. As Greg mentioned he presented this last week along with Aisd staff to our commission meeting. We have a letter that you all should have received on Monday or Tuesday that kind of outlined both the history that the commission has stood ready to try to take this item up whenever it became ripe to do so. And then we're neutral on this item today, but the issues we raised, some of which are endemic to any large project, timing and process. Some of those things are wrapped up in the PAC that I think you hear on every major project that you get every week. How those affect Mueller in particular, and Greg touched on some of these, the traffic planning that will occur during the events. Not just a document that says what's supposed to happen, but how will that be implemented during the hundreds of events that are expected to happen here. The evolution, how this project will affect the evolution of the roads in the area. Mueller is going faster than expected in terms of its buildout. It's not even half done yet, I believe. Even at this its traffic loads are proceeding pretty quickly, so how this influences that larger picture. The design of the building itself, how it treats the street, Greg mentioned that. How it energizes 51st Street and especially a corridor planning effort for 51st Street. Conceptually all the way from Airport Boulevard all the way east to Manor Road, which is kind of the sphere of influence that Mueller has a 51st Street if this project could energize that process it would be fabulous and it is very necessary. And then the process expectations are high. Again, every large project has that. Mueller has a pretty high standards within our own selves about public process. We're all heartened when Greg and Aisd staff, Paul Turner, say at the very beginning that there will be a lot of process. Windsor Park Neighborhood Association and the Mueller Neighborhood Association in particular are affected, so engaging them is going to be huge. And the Mueller goals, the six goals that were laid out at the beginning of the presentation earlier, the fiscal responsibility, how this affects the MDA pro forma, the neighborhood compatibility, how this relates both across 51st Street and within the project, all of those are things that we will continue working on, talking about having on our standing agenda every month and look forward to advising you as this project proceeds. Unless there are questions about the Mueller Commission's discussions or concerns, I thank you for the time.

Cole: Mayor, I have a brief question.

Mayor Leffingwell: Councilmember Cole.

Cole: Jim, I thought I understood you to say that even when we pass this item you would continue to work with the -- through the Mueller Commission with all the stakeholders so that we end up with the project that we're pleased with. Is that correct?

We have a hard time letting go of working on projects.

Cole: No. [Laughter]

but in our charge from council to advise you on the implementation of the master plan, we view it as part of that consistent with that charge that whether it's a substation or it's a performing arts center or it's a hospital that our role is to invite -- we can't compel, but we can invite those entities to kind of have a monthly opportunity to say how the project is evolving, what's changed. We thought we were going to be able to do this, now we can't. So what does that mean? And it provides a great forum in addition to the kind of neighborhood outreach that a group would have to do for a project to be monitored. So that all of the things that are said about a project's potential and all the concerns that are expressed, that we get the best of the potential and the least of the concerns. So that's our role to you is how we viewed that. We'll retain this as a standing agenda item. It doesn't mean every month we'll talk about it. There will be something to talk about every month, but the opportunity will certainly be available.

Thank you.

Councilmember riley.

Riley: I thank you for being here and for all the work that you and the other commissioners have been investing in this and everything else going on out at mueller. I'm delighted that y'all very involved and will continue to be involved in this as it unfolds. I take it -- I can understand y'all having ongoing concerns about how this design will take shape, how it will relate to the streets both on 51st and along -- within the mueller development. I just want to get a sense of how you see this at this time. It's my sense -- i understand you're neutral here. I can see some real up sides to going ahead with a project like this at this point. I think somebody used the word catalyst about 51st street. I could see it being a catalyst both for 51st street and in fact within mueller, the mueller boulevard, the main boulevard going right through mueller. It currently is really not even half done. It's not much of a boulevard right now. It's not very bike-ped friendly, for instance, because only --

not yet.

Riley: Not yet because it's only half a street. When you ask how is that so friendly? The answer you get is eventually it will be built out to something really cool. And this project I take could propel us further this n. that direction. I'm just trying to get to a sense of is this something that mueller commission would be glad to see coming -- moving forward that the point? Or does the anxiety about this design lead the commission to really prefer that we slow down and not move forward with that at this point?

I -- I think rick will speak to some of this, also a commission member. The commission remained neutral on the item today, which is the item to allow catellus to do this transaction and keep it rolling. And that said I would say that we view any of the things that kind of come at mueller, our role is to try to shape them so that they fit in. And any project has potential to do that well or to do that poorly. And we've had the pac, performing arts center, as an item for two years now. We've gone back and forth on. There are ways that it can really fit in well and become something that draws and is an attracter and is a good thing, if it's implemented some other way it could be really bad. And so it's not -- I don't know that it's our role to say -- also just a bit of the history. Part of our influence on the pac was where within the mueller master plan this kind of use was appropriate. And it's closer to i-35 where the regional serving, larger traffic-generating uses are. So I think -- I don't know if I'm answering your question directly enough. It's really a how do we shape as best as possible any project that kind of looks to be at mueller? And there are some guidelines and goals in there that any project has the opportunity or potential to achieve if the will is there. And that's what I think we'll be looking for from aisd and catellus and other folks. Did I answer your question?

Riley: I think so, thanks.

Kind of sort of?

Riley: Appreciate it.

Mayor Leffingwell: Thank you, Rick. Rick, have you three minutes.

Thank you, mayor and council. I want to thank you for the opportunity to serve on mueller commission. I want everybody to know I am on that. I am speaking today as a 40 year resident of windsor park and someone who has been involved with the redevelopment of mueller on a volunteer basis for over 25 years. I was one of those people who was advocating for moving aviation out of mueller because they were talking about expanding the airport into my neighborhood. And then was involved with the citizens for airport relocation plan that I think set the tone for the master plan that did come about. One of the big goals of that was I don't know if you remember that we talked about the donut versus the wedding cake where if we just allowed the perimeter roads to develop initially because they had the utilities, that you would get this donut of development and then it would get less dense towards the center. Whereas if you plan ahead you can create the density at the center of the site and then lessen the impact of the redevelopment on the surrounding neighborhoods. I have to say that I think the current plan has done an amazing job of lessening that impact on the airport boulevard anchor lane and manor road perimeters of mueller. 51st street is an entirely different story. Windsor park has been impacted by initially the rerouting of traffic from the interstate frontage road to cameron road, through mueller and what's called the jug handle. We were not looking to have big box retail and we got a home depot right on that corner of 51st and cameron that's right across from cameron. One of the initial changes of the master plan was taking the grocery store, which was going to be central to the site, and now it's going to be located on the corner of berkman and 51st street, so that's a high traffic use that's been moved to that perimeter. And now this is the project that's going to generate a lot of traffic that is also going to be on 51st street. 51st street has a lot of traffic issues. Some of it has been generated by mueller, some of it has been generated by developments to the east. Some of it goes beyond mueller as airport boulevard and the metro rail line intersection. So anyway, today I want to ask of you is that I would like for you to ask catellus and aid to go back and look at a different site at mueller, something that's more central. If that doesn't happen, I think the city owes it to the community to do a serious look -- I think catellus needs to participate in this, on what's happening on 51st street. Windsor park wants to connect to mueller. We want to do that through -- saches we can by walking and being able to get across 51st street as a pedestrian or on a bicycle, something that we ally -- it hasn't really been addressed well at this point. [Buzzer sounds] that's one of the things that I would ask for today from you. If you have any questions, I'll be here. Councilmember morrison has a question for you.

Morrison: Rick, I'm not quite sure I understand the issue about having this on the perimeter versus say in the center of mueller. Can you briefly put that in a nutshell the difference in impact?

If it were in the center I think traffic as it was leaving -- I don't think traffic coming to the performing arts center will be as big of an issue because it will be more disbursed, but when an event let's out I think you will be dumping out a lot of traffic. And it's on 51st street, which is most people and the rest of austin who will be coming to this, and they're not familiar with the area, but they'll say 51st street, I know where that goes. This thoos where I'm going to go because it's right there. Were it central to mueller they'll realize they can get to there from airport boulevard and I have leave via airport boulevard, I can leave by barbara jordan and go down the straight frontage road. It would disburse traffic more.

Morrison: Good. Thank you.

Mayor Leffingwell: Next speaker is flesh sha adam -- fe leash sha adams. And donating time is martin barrera. And so you have up to six minutes. Your signed up for the item.

Hi. I just want to give you a little bit of background first. I'm a mueller airport. We bought our home in mueller in 2007. We were among the first probably 15 people to move into the development. When we purchased our home there was nothing but torn-up runways out there. We bought a dream. And as we've lived there for three and a half years now, we're seeing that dream come true. We have been just

blown away by every step of the process of what's happened in mueller. It's been developed the way it's been promised. There's been community outreach. There's been great collaboration. I feel like I have great faith in the collaboration that catellus has provided with this city, with the residents and with the surrounding communities of every step, every new thing that's been built, and i feel like there's been a lot of nice joint work done that keeps everybody as happy as possible, moving towards the same goal, and a really great adherence to the original goals of the neighborhood. The performing arts center to me is another piece of this puzzle that we bought into three and a half years ago. I feel like the performing arts center is a great way to bring all of austin to mueller, and I feel like that is the kind of neighborhood that we wanted to be a part of and the kind of neighborhood that we bought into. Already as greg mentioned our parks get used. They're totally full on the weekends. And honestly, nothing gives me greater joy than to go to the park and see it completely packed. So to know that mueller will then be a destination for people all over the city coming to see their kids perform for their projects just -- it makes me just burst with pride. So I think that there definitely are traffic concerns, there's definitely design concerns, but I feel very confident that the different entities that are already in place, that have already worked so well in the past will be able to come together again and make this another gold standard product that the rest of the country and the rest of the world will be able to take note of. Thank you.

Mayor Leffingwell: Thank you. Questions? Thank you very much. Councilmember riley, i believe has a question.

Riley: I do have one question. Thank you for being here today. You heard the concerns that the earlier speaker expressed about placing this on 51st street as opposed to something that's more -- somewhere closer to the interior of the project in the center. As a mueller resident, could you offer your perspective on that question about whether it should be closer to the middle rather than being on the perimeter?

I guess I don't have a really strong opinion about it being closer to 51st street versus the town center. I understand rick's concern and I think he makes a good point about when people come to the performing arts center they'll be coming from all over and different routes, and when people leave it will be mass leaving. But I guess I feel a little bit -- I feel pretty safe in the fact that I think that there will be a plan in place to work out any problems that that might cause before the first event is scheduled there. He mentioned several different ways in and out of a neighborhood and I think that those -- there's a way to communicate those to the people who come to visit, and once we have several events there, they will all be known. It won't be this place that no one has been before.

Riley: Okay. Thanks.

Mayor Leffingwell: Those are all the speakers that we have signed up. I've got a question I guess for staff. It may involve catellus too. The item before us today is a land tract transaction. As I understand it, there will still be a process to go through before a design approval process by the mueller committee. Will that process -- the big issue seems to be traffic. 51st street becoming more and more of a commercial corridor with the home depot and then the dell medical center and now the performing arts center and so forth. Obviously all these things are high traffic generators. And are we making sure that we continue to update our traffic studies. And as a part of this project approval process, i would assume that the possibility of traffic mitigation would be considered along the way.

Yes. This is pam hefner with the economic growth redevelopment services. The entire mueller project does have tia, and it would be reviewed through transportation. Also catellus is responsible for allocating the trips up the entire tia to the different parcels. So they would be limiting the number of trips for this parcel. Also the design will go through the new construction council and be subject to design guidelines. But as far as traffic, it's very early in the process. It hasn't been the direction it will face hasn't been identified, so that's just the beginning.

Mayor Leffingwell: So it will. That will be part of the overall analysis and approval by the committee and

others before this thing is ever built. I believe it's got a five-year window (indiscernible).

Yes. The transportation committee is an informal committee to get input and feedback and to try to reach consensus. So it will be vetted through that entity.

Mayor Leffingwell: I want to make sure those concerns are fully addressed during this process and before final approval. The impact, especially with regard to the joint neighborhoods.

Thanks. Would you like to hear from greg weaver about any -- the traffic issues?

Mayor Leffingwell: Would you like to make a comment, mr. weaver?

Only if you want me to. The only thing I would add on to that is what the school district has agreed to do. That's not a requirement at mueller is do a traffic demand management plan. Which is a formal -- it's an official title that transportation engineers do on specific type projects. And we talked about it with the school district at the commission meeting about doing that and they've agreed to do it, which is another layer in addition to saying there's enough trips based on the tia, it takes it to a lot more prescriptive and prescribed document that would again talk about the roads, the allowed roads for buses, the preferred access in and out and all that. In california you're required to do that. Here you don't need to do that, but I think they've agreed to do it. Well, I don't think, they did agree to do it. Which to me gives us a lot more -- us comfort and hopefully windsor park ultimately. We'll open that up for a process so it's all open for public input. And again, hopefully consensus on it.

Mayor Leffingwell: The analysis that requires it, there could be additional things required as far as, for example, traffic signalization, things like that, traffic management for special events, and all that would be part of this process.

Right. It talked about -- depending on the level it talks about car pooling, talks about shared rides, talked about if kids are coming from different schools, try to collaborate all that, really to reduce the amount of traffic, number 1, and then two, limit where -- what traffic there is is limit the roads that they're going on.

Mayor Leffingwell: Councilmember riley and then morrison.

Riley: I just want to ask you about a couple of concerns that have been raised. First in terms of the letter from the mueller commission. The commission raised concern about 51st street. They're suggesting that this project should engage the windsor park neighborhood and catalyze a larger visioning effort for 51st street. Can you speak to how you see this project relating to 51st street and the windsor park neighborhood?

You bet. We've talked about this a lot. We've talked about it for a couple of years. Frankly most of the development to date has happened on the southside AND NOT ON 51st. There was a lot of time spent in the early days, probably before we're involved on 51st with lail light rail going down it and a lot of different things. There hasn't been enough detailed focus on it. What we talked about at the commission meeting was doing that is having a corridor plan put together in a lot of detail and look at everything. And not just look at the southside, look at the northside. We can control -- we being us and the city can control the southside, but the city has a lot to make it a true corridor. So what we've committed to do is kick off almost a quarter planning -- corridor planning process to get a lot morphine grained detail of what 51st will be, not just today, but at full buildout because right now there's been nothing dunk done on 51st except for the home depot. So what we're going to do is a part of all this and put a specific plan together, build a design team, involve the community and specifically windsor park on getting into the fine grains on what 51st should be long-term.

Riley: Okay. And with respect to mueller boulevard, could you update us on the timing on the

completion -- on the full buildout of mueller boulevard?

You bet. And so people understand this, I know we've talked about it, mueller boulevard has bike lanes on both sides at full build out. When we built it it was initially for the children's hospital on the west side of mueller boulevard. And it was -- the right-of-way only allowed for a kind of two lanes of traffic. But at full buildout the section will be -- we're actually looking at some different bike components on mueller boulevard. But today the way it's in the design guidelines is there's parking on each side, there's a bike line on each side going in -- with traffic. And then two lanes of traffic on each side and then a center median. That's at the full buildout. This on the performing arts center we're going to be extending -- we'll start going on the other side of the road and extending mueller boulevard just past the barbara jordan boulevard. So it wouldn't be the full buildout on it, but it would be extending the first part and adding the bike lanes to both sides. Again, I have gotten an email from jim adams yesterday morning and we're looking at some alternative bike corridors, I guess, to look at something doing different, both on berkman and mueller boulevard. We're studying it right now to look at alternatives. And gt part is since we haven't built blt the other side it leaves us flexibility to do different things from a bike lane standpoint. Today there's bike lanes plan odd both sides, but half the road is built there today, but not the entire road.

Riley: In connection with this project we would see the buildout of at -- the northernmost section of mueller boulevard.

That's correct, just south of barbara jordan boulevard.

Riley: Okay. That leads me to a final question. There are a number of concerns that have been raised about moving forward at this time. And some folks have wondered whether there would be a benefit in holding off on this, looking at this more carefully. And of course there's always value in looking at things more carefully. Can you speak to the upside of moving forward with this now, the benefit that you see in moving ahead with the performing arts center at this site at this time?

You bet. I think -- I personally think a performing arts center from a mixed use community of this size is a fabulous use. And so from a use standpoint I think it's a great use. We also understand the issues at hand here. So my preference, you know, is to move forward. And my commitment to the council -- and we can come back and do briefings on it. I think what we've tried to do is be as transparent as possible. Come back with a traffic plan and come back with design and come back to things. Move it forward, allow the school district to release all their consultants and their traffic engineers and the design team and move forward, and with us -- we're going to be here for the long haul, so I will have to come up and face you on something else. And I guess -- so I guess I'm asking for a little bit of trust here that we're going to work as we always have done for the last nine years at mueller on an open book, transparent basis. And build a consensus. What I talked about earlier in the presentation is we've been unique at mueller where we've had everybody holding hands, whether it's community, residents, the city, advocates on different things. And we're here for the long haul and we're going to continue to do that. Last thing I want -- rick and I have talked about this -- is windsor park not wanting this thing. And I think if you can do liner uses or active uses on 51st, do the 51st detailed kind of corridor plan, come up with the traffic plan, it could be something that everyone is going to get proud of and be concerned about. So my I guess request is to move it forward, hold our feet to the fire, hold our feet, aisd's feet firefighter that all these things we're saying here we're going to commit to and we'll be back up here for something else and you will be able to call me on it, if we don't do it. And I've committed to rick and windsor park to do it. And it's something again that mueller has been my personal baby for a long time and I'm proud of the way we've built a consensus on so many different hot issues and different things out there that it's been able to go forward. So I would say you've got my commitment and catellus' commitment to continue that effort on an ongoing basis.

Riley: So you're confident that with the continued involvement of the mueller commission and the transportation committee as well as the continued involvement. Windsor park neighborhood and the

mueller neighborhood, that this project will move us further towards the vision of the original mueller plan.

100%. There's projects like this around the country that have performing arts centers just like this, and you get similar concerns. Buses, traffic, everything else. I think if we're all together on it and we're all doing kind of what we've done in past on lots of different fronts and we work together on this that we'll come up with solutions that people will be proud of and nodding their heads and saying this is done the right way. And really it takes a school district to commit to do that and they've committed to us both contractually, but again in a public forum where they've come out and said we get it and they want it to be a crown jewel for them and something that the kids and the neighborhoods will be the ones using and the families that they want this to be something unique and special. Riel rye thanks.

Riley: Thanks.

Mayor Leffingwell: Councilmember morrison.

Morrison: Thanks for all your comments. And councilmember riley's questions were mirrored what I was going to ask in large part. I appreciate that. I do want to follow up on a couple of things. With regard to the traffic management plan, I guess i feel pretty sure that there can be a lot of work that can be done to disburse traffic by putting up controls and all as well as some of the things that you were mentioning. And I had sort of hoped that our transportation folks could be here to confirm that, but that's what engineers do. So I'm good with that. I did want to just mention to staff specifically one thing, and that is you know we have some bond funds to work on that intersection there with the jug handle and all. And it seems that with this use on 51st street, i don't know if there's anything at all that our transportation department might want to take into account before they finalize that bond project at that intersection. So I would just ask that staff connect with our transportation department to give that a little thought because we will be having more peak traffic there than perhaps originally considered. And then on the issue of active uses, I do want to adams, i think it was, who made the comment that it's exciting to think about lots of people from all over the city experiencing mueller and really having a part in it, and I agree with that because there are a lot of great things about it. In terms of the active uses that you're talking about, also I wanted to mention 51st street is a core transit corridor in the commercial design standards which has specific expectations about ensuring vibrant, active participation of pedestrians and all. So I guess perhaps turner has left, but -- oh, he is here. turner, I wanted to ask you all about what I'm envisioning and especially weaver is the 51st street side is likely to be lind with active uses that are beyond the performing arts center. Am I understanding the -- do I have the proper expectation?

Thank you for asking. We have been working closely. What we wanted to do first was really listen carefully to understand exactly what the community was feeling about this. We do see that as a requirement that we're going to need to address the sensitivity to the welcoming and inviting kind of environment that we want to . And we've had our designers at all of the community meetings and neighborhood meetings so they can hear firsthand exactly what the issues are that are being raised. We have not finalized plans on that, but we've had a lot of good conversation, a lot of good points that have been made. And we're going to be working very closely with catellus to examine what the -- that liner use should look like so that we can be sure and design that in to what we're working on. We've gotten a number of good suggestions during the mueller neighborhood association meeting in particular about ideas that the community had that we think are doable. And we'll be very open to coming back and sharing that kind of thing with council, with the neighborhood associations, with the commission as we move forward because we really -- we're really excited about being able to consider this. We've been long in getting the site identified and i know the youngsters in the school district are going to really benefit, so we're -- we feel confident that we can meet the expectations of the community going forward. And some of the folks have talked about the walkability and the friendliness towards those kinds of things. That's really something that we want as well. And we feel certain that we can develop a traffic management plan which could include even park and ride kinds of issues to keep big amounts of traffic out if we need to. We're not far away from nelson field. And in the first discussion that I had I stepped all

over my feet about how we would manage that, but since then we've talked to our transportation department about being able to maybe use some of the parking or the bus facility that we have at nelson field as kind of a staging area for parking and riding if we need to. We have a lot of parking in the reagan student parking lot and at nelson field, which is not far away at all.

Morrison: Okay. Thank you. So with regard to 51st street you're talking about having lieper uses, which would -- liner uses, which would be -- what are some of the suggestions that came out of the discussions with the community?

There was an interest in having something that would be an active use that the neighborhood could use, something like maybe places to sit and eat lunch. We'll have an entry plaza and that would accommodate some of the kinds of things that would be involved in that. There will also be some building of actual maybe offices. We haven't designed it yet. I guess we'd like to listen further and look at our alternatives before we commit to anything, but i think we understand that the community wants this to be a very pedestrian friendly and neighborhood friendly kind of venue. And we definitely want that as well.

Morrison: Okay. Thank you very much. I appreciate that.

Mayor Leffingwell: Any other questions, comments? I'll entertain a motion on item number 19. Councilmember morrison moves approval. Seconded by councilmember spelman. Further discussion? All in favor aaye? Opposed say no? It passes on a vote of seven to zero. Councilmember morrison, you pulled item number 34. Does that promise to be fairly -- all right.

Morrison: Thank you. Item number 34 is an austin energy -- it's a temporary staffing contract as i understand it for our 311 311 information contact center for temporary staff to go deal with peak loads. The reason I was looking into it is because it's a rather large contract. It's four and a half million dollars with four extensions. And so four and a half million dollars for temporary staff for a year, I was trying to understand how all of that worked. And in the backup it looks like the utility center needs 40 to 60 at certain times. And the 311 call center needs 20 to 40. And the questions that you all answered said you were actually contracting, looking at contracting for 115, if -- even though the maximum really would take you to 100. Is that just a bit of a comfort level?

It is. I'm sorry. Jj gutierrez, austin energy, vice-president of customer care. And that number is an approximation and it allows us a little bit of contingency should emergencies arise where we need to staff up quickly. It gives us a bit of cushion to allow for that.

Morrison: My question really becomes we're spending four and a half million dollars on temporary staff, and how do we balance that or compare that to spending four and a half million dollars on permanent staff that would be available during peak seasons, but could actually be doing other work in off-peak seasons? So could you help me understand that?

Yes. Each time we have these contracts come up for renewal, which this is our third time, we make that same assessment. We determine whether we can utilize city staff, city temporary employees to perform this business. Or these functions. The call center itself is a high volume turnover environment, so the use of city employees and city temporaries really prohibits itself for that fluctuation. It's so high after turnover, plus it's so labor and skilled specific that it's tough to have a skilled workforce at the ready and then be able to move out so quickly and then back in as the demand rises. So it really is a matter of serving peak call demands and being able to serve those already trained and staff personnel who may already perform these kinds of functions for other agencies, other companies that the agencies may support.

Morrison: So you're saying that you can find temporary workers that can step in and are up to speed

that very minute.

Very quickly.

Morrison: And what do -- how is it -- how are we able to have those folks out there in contract world, but not on staff?

Those folks are professional call takers and call agents. And they work at many of the call centers that are in and around austin. So what you will see is those call takers will bounce between contracts. So they already come with the call taking skills that allow them to quickly -- so within weeks of training we can educate them on our particulars regarding the utility and 311. But they already come with the basics required for phone handling.

Morrison: I see. So I guess I just have a level of discomfort here because we're really -- if we were able - - I looked at some numbers. For four and a half million dollars, you can hire 115 folks to work the full year as opposed to just during the peak times. And that means that we would have them servicing -- servicing the city in the non-peak times also, which is a huge benefit. So that's why I think byron might want to add something here.

We did one more assessment as well and determined that if we were to hire the same amount of employees as city temporary employees or as city employees, we would need an additional 500,000 to \$1 million to provide the same number of employees.

Morrison: What's the estimate -- what number do you estimate that you would have to pay them?

The salary increases anywhere from four dollars and six dollars an hour to hire them as city employees.

Morrison: Okay. My numbers are not really lining up with yours, then. It looks like they're paying the folks on average \$13 an hour.

It's \$11.50.

So 15 or \$16 an hour it only costs 38 -- that 8 million to hire 115 people.

I'm sorry, I missed the question.

Morrison: That wasn't a question, it was a comment, and that is if you're paying out right with the benefits and all \$16 an hour, then 115 people on staff cost 8 million, but you're saying it costs five million or 5.5 million.

Utilizing the city of austin pay scales, that's the difference between the two. So the city of austin pay scales are a bit higher at the entry level for that type of skill.

Morrison: Maybe we can talk about the numbers offline.

Most definitely.

Morrison: The -- to me it looks like it costs less 5 million and you're saying it would cost 5.5 million.

And I do have the analysis and I can provide that to you.

Morrison: Okay in that case I would ask that we take a little time in between our sessions so that I could go over those numbers offline.

Mayor Leffingwell: Do you want to table item number 34? Motion to table. Seconded by councilmember Spelman. Discussion?

Morrison: Can we talk offline? Or would you like to make a quick comment?

We can.

Morrison: Okay. Great.

Mayor Leffingwell: So we'll address this later on this afternoon after you've had time to have those discussions. All in favor say aye say aye. Opposed say no. We able to have those folks out there in contract world, but not on staff?

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Morrison: Can we talk offline? Or would you like to make a quick comment?

We can.

Morrison: Okay. Great.

Mayor Leffingwell: So we'll address this later on this afternoon after you've had time to have those discussions. All in favor say aye say aye. Opposed say no. It passes on a vote of six to zero, councilmember shade off the dais. It's now time for citizens communications. The first speaker is steven jackobs. Welcome. You have three minutes.

Thank you. My name is steve jackobs. I'm executive director of capital idea. mayor, mayor pro tem, councilmembers, the city manager, for your service to our community and for your attention today. With me are graduates and supporters of capital idea and I would like them to please stand. They already are. First we appreciate the many world series years that the city has supported capital idea and would like to thank each of you personally for your unique contributions over the years. We fully realize that at our spelman was first serving on the council, your support was an act of faith and confidence. And not one of data and outcomes. Now a decade later we have more than 800 graduates and we're proud that they're paying back that faith with proven results. Last year capital idea graduates started new careers at an average wage .82 an hour. They pay now as much in taxes as they earned in their low wage jobs before. We're glad that you have slowed down the social service contracting process to receive further input and to consider it's unintended consequences. Yesterday's health and human services committee was a step forward and we especially appreciate riley for taking time out of their schedules to join the committee. We look forward to next thursday's work session as another step in the right direction. I want to quickly echo for benefit of the full council what our partners and colleagues stated yesterday. process has left some unintended, but critical service gaps such as early childhood programs, mental health, substance abuse, and long-term job training. Obviously we're concerned about long term job training, but we realize that it's just one of many critical gaps. Capital idea is the member of one voice and we strongly support one voice's call to invest more resources in social services to fill service gaps and to expand the dialogue. We did hear councilmember councilmembercole's message yesterday that community must support the necessary taxes to support those services. As there are many critical needs faces is our community, you face difficult and unenviable choices. We trust that you will continue to take whatever time necessary to sufficiently explore all options, the consequences and the impacts. Thank you very much.

Cole: Mayor, I have a couple of questions.

Mayor Leffingwell: Councilmember cole.

Cole: I'm just wondering if you can tell us a few statistics and just off the top of your head and if you don't know that's fine. What is the average income of your students?

At the start it's 14,000 when. When they start their new career it's 40,000.

Cole: And what is -- do you have any idea of the basic racial makeup of your students?

We're approximately 50% hispanic, 25% african-american, 20% anglo, five percent asian.

Cole: Thank you.

Mayor Leffingwell: Phillip green. The topic is water fluoridation. You have three minutes.

Council, may I please have your attention? For those of you who were there at the last meeting, i thank you and implore the rest of you to watch it. It is an hour and a half long and answers many of the questions y'all may have about fluoride. griffin cole, a local dentist and paul connet, cited numerous peer review studies showing that ingesting fluoridated water is not just an effective, but extremely dangerous. Experts in the hhs, austin public water utility and the texas dental association did not cite a single random christian cringe kel trial for the benefits of fluoridation. We know that individuals can experience symptoms of acute 1 3 milligrams per kilo graham of body weight. An infant in austin receives this toxic dose drinking one cup of water. Let me repeat that. An infant in austin drinking eight ounces of water is receiving a dose known to cause toxic acute -- to cause acute toxicity. Thousands of infants in austin receive fluoridated water in their formulas everyday and it is in part this reason why the cdc recently cautioned the parents against it. I will quote from the cdc's 1999 rmp report, ingested fluoride is transformed in the stomach to hydro florric acid which as an affect on the gi tract. First abdominal pain, vomiting and diarrhea are usual stimpis. I am a festival coordinator for acl and sometimes work 18 to 20 hour shifts and can consume gallons of water working in the sun, while some people drink no water in the course of a day. None of the experts could respond to the dosage because their recommendations are based on average consumption rates and do not address the dangers posed to children, people with thyroid issues, renal patients or those like myself who simply drink large quantities of water. The acid, sodium fluoride and this rock I'm holding, calcium fluoride, are all toxic substances. Yet the acid form is highly corrosive and react active and by law I do not bring a sample in today. Many of the residents in kyle and buda by expensive -- buy expensive filters to remove the naturally occurring fluoride, yet we spend hundreds of thousands of dollars every year to add a questionable, industrial by product to our water with little to no regard given to risks poses to infants, dosage control or the cost of treating those adversary affected. Our fluoridation policy is based on a dose for the general public, not individuals and especially not for young children and that is simply unacceptable. A public referendum is unnecessary. Follow cal gory and lago vista who recently voted to end this unsafe, ineffective process. We need two of you today to call this issue to a vote. Please watch the video.

Mayor Leffingwell: Thank you. Next speaker is gus pena. He will speak about memorial day and a number of other topics. Welcome. You have three minutes.

thank you, mayor, councilmembers. Gus pena, proud native east austinite, memorial day, dear jesus, today we remember with gratitude the men and women in the armed force whose gave their freedom for others. Remind us of the cost of freedom and the sacrifice that many have given to preserve and have it. Continue to bless our continue. We pray in your time naim for you gave your life to free us from sin. Amen. Mayor and councilmembers, i come here today to recognize and remind all the people from the state of texas, the united states of america, a lot of people to listen to us through the internet about the - - what memorial day is all about. It is to remember the soldiers, air force, marines, navy, coast guard, whatever, who lost their lives in defense of our country's freedom, safety and democracy. They lost their

lives to get us a free country and we will be able to come to this initiative here to tell you about the deficiencies in the community. I especially want to recognize and remind people about my fellow classmate, alex. This is his old newspaper. It says somebody's hero. Everyone. First to die in vietnam, first lieutenant ronnie woodmans y. My good friend from zavalva elementary, johnston high school, alex. I want you to remember this because these individuals who served in the military fought in wars to preserve our country's freedom and safety and liberty and the ability to congregate and meet in this type of arena and session. This is the allen junior high bulldog. I keep it as my friend alex and toby rodriguez, also my classmate, died in vietnam. I don't want anybody to forget what sacrifices the military veteran as done and did to give their lives up for our country's freedom. Don't ever forget that. I want to also remind everybody about the vietnam veteran's plight. No war is a good war. We lost 18, 18 of my fellow classmates at johnston high school during the vietnam war. I want to remind people also about the deaths of our female veterans. We tend to forget about the female veterans. In vietnam eight women on the wall, the memorial wall, they gave their lives to take care and try to heal the wounded. Ladies and gentlemen, I want you to never forget the plight of the veteran whose gave up their lives for the country, best country in the world in my opinion, even though sometimes we have deficiencies. I love my country. I served in the marine corps in vietnam. I would gladly do it again. I don't want anybody to forget the plight of the military veteran whose gave up their lives. Mayor and council, I thank you for what you did earlier today. That was my reserve unit. I served in 1974, served six years active in the marine corps and god bless america, god bless our veterans. Thank you very much. [Applause]

Mayor Leffingwell: Thank you for your service. Next speaker is eric holloway. Topic is the anti-lobbying ordinance and citizen participation. Welcome. You have three minutes.

Good afternoon. My name is eric holloway. david's episcopal church and leader with austin interfaith. I'm here to speak about anti-lobbying ordinance and public participation in austin. Yesterday over 60 austin interfaith leaders attended the health and human services committee meeting where a leader with austin interfaith spoke on behalf of our organization. I would like to recognize the councilmembers that were present at the committee meeting yesterday, councilmember riley, cole and shade, mayor pro tem martinez and councilmember morrison. You will have heard some of this already, but we wanted to share with the council at large and make some suggestions based on what we heard yesterday. As we shared yesterday, our pastor fred cbs of austin interfaith received a communication from the purchasing department that essentially no person can speak with any council person about health and human services programs that they are concerned about except publicly at meetings covered by the texas open meetings act. During the hearing a representative from the city reiterated that interpretation. If citizens and citizens organizations such as ourselves, are not allowed to speak with our own elected representatives, regarding important city public policy, we are being denied our first amendment rights. Now, to be clear, we are not a respondent in the r.f.p. Program. We do not accept any government money. We are independent. We advocate for programs that better our communities and our families. The anti-lobbying ordinance was created so for-profit companies could not lobby for their own bottom line in economic interest and as taxpayers we appreciate that protection. But as taxpayers and citizens we want to advocate for prime time, esl, capital idea and other vital programs in the r.f.p. Process. And this is about being able to have a conversation with our elected officials. We know that we can speak to you here andrew mcintosh at other meetings under the open meetings act. We're fine with posting our meetings with individual councilmembers as open meetings, however at council meetings and hearings there's not enough time to conduct public business. As we saw yesterday, when there was not enough time for everyone at the health and human services committee meeting to speak, even when they were restricted to three minutes each. All five councilmembers at yesterday's hearing agreed that there needs to be some kind of change from getting rid of the ordinance for the remainder of the process to making changes to clarify it. We believe that this ordinance should apply only to paid staff of the respondents, not to volunteer board members, independent advocacy groups and regular citizens. Council, this ordinance needs to get fixed as soon as possible and our leaders look forward to continuing dialogue around this issue. As you may have already seen, we submitted an op ed on the everybody published in today's statesman. I would like to submit a copy to you all to read if that's possible.

Mayor Leffingwell: Just pass it to councilmember riley. [Buzzer sounds]

Mayor Leffingwell: Thank you. Next speaker is -- [applause] dar si bloom. Her topic is water fluoridation.

Council, I would love nothing more than to run around these chambers high fiving you, because you not only realize the waste of money the fluoridation is to our budget and to the important of austin citizens' healthy well-being, you heard us out. You researched more than what the organizations who monopolize information about water fluoridation say, but because you voted out flor row sill lick acid. Natural's natural level of 2 parts per million. That's good enough. We are lucky to have that amount really. On march 22nd water treatment specialist shaun McNATIONALLY STOOD UP HERE And explained that the white house, ghost's residence are equipped with reverse osmosis so that acid along with other chemicals are removed. Of course they have one. Everybody should have one if you could afford it. One of the strongest offense for fluoridation is bent fit of the poor and the children of income challenged families who might not practice adequate dental hygiene. I grew up poor as a younger cheeld. My mother and brother working for our survival lived in a shack. Water hose for a shower. The dishes. But we always had toothpaste. If parents are too poor to acquire toothpaste, that's sad. I would let my own teeth rot out before my children's did. Instead a whole population is forced to ingest a chemical by product for the sake of that. There are more of those who brush their teeth and then don't, even the very poor in the city. Fluoride is effective topically. Meaning that topical is beneficial for the fluoride. If you ain't brushing anyway you won't have teeth to fluoridate. You should use some of the city you u date and use it to fund for proper dental hygiene. People can buy their desired supplementation least and then they can have a dosage control. Again, there is no level of control to dosage of acid in the water supply. Different people, different water intake. Now, not to be rude, but hhs and doctors yarborough and george's defense on fluoridation last week really lacked strength. Same old tired research against many new studies that disprove the safety of this practice. I am glad randi and mike were there in participation. I encourage the whole council to view last week's debate video no matter what stance anybody has on this issue, the debate speaks for itself. paul connet was not just referring to the two men at the debate last week, but the whole american dental and medical society by addressing having problems when it comes to medical studies. All that is studied is teeth, teeth, teeth. As if it were the only tissue in the body. Council, there are two -- are there two of you today at least who will take action today to put this issue on the agenda? Would there be right now? Does any councilmember understand the actual dosage problem? [Buzzer sounds] I'm asking a question. Do you really like understand --

Mayor Leffingwell: Thank you. Your time has expired.

But I have a question. Can I --

Mayor Leffingwell: Your time has expired.

I can get interacted from y'all? Just interaction.

Mayor Leffingwell: The next speaker is mary ellen pietruszynski.

I would still like to run around and do high five's when you do that. [Applause]

Mayor Leffingwell: The topic here is workforce education.

Correct. Thank you, council, mayor. My name is mary ellen, director of shuts foundation, a local foundation whose mission is to provide educational opportunity for the underserve heard in austin. I spoke yesterday on behalf of capital idea and I'm here today to do the same. Although I wish to be respectful of members of council who were here yesterday. Today I want to provide you with a slightlily

updated research brief from the ray marshall center. Believe it or not, overnight we got some data showing a 20 year return on investment. And it shows that over 20 years the return on investment for capital idea is almost double what I said idea. So I cannot say enough times how strongly the foundation and its individual board boardmembers comprised of the founders of silicon laboratories believe that capital idea is a mandatory investment in workforce investment for our city. I also -- [applause] I also would like to use my time today to comment on two points I heard yesterday. In order to make this review of city social service contracts as democratic a process as possible -- the people that the foundation the the people doing the heavy lifting in our city. The directors and strategic employees of the nonprofits we are evaluating. The thoughts expressed by walter morrow, steve jacobson, allen, susan and the other great nonprofit leaders in our community can shed much light on some of the innovative solutions we are going to need in these tough economic times. I would add that one work session may not be enough. Additionally -- [applause] I wish to highlight that my salary is paid whether I sit here for 15 minutes or four days. And I fully appreciate, as councilmember cole highlighted yesterday, it's not fair or right for you all to be addressed everywhere you go, soccer , out for a walk, it's not fair, but we need additional public meeting time during the social services review process with a fairly strict time schedule so that an hourly worker taking care of a mentally ill sister wanting to speak on mental health care can do so without being penalized. As far as we are all -- at fair as we are all trying to be, it will not be a fair and democratic process if we do not make room to listen to both our experts and our citizens who wish to speak regardless of their ability to break free of their workday. [Applause]

Mayor Leffingwell: Thank you. Next speaker is sarah stollak.

Cole: Mayor, I have a brief comment. I want you to know that what I meant to say, if that was not what I said, was not that we don't ask to be talked to when we go to the grocery store and the soccer games. I simply meant that it's not fair for those that don't run into us at the grocery store and soccer games.

And I want my comments to be taken the same way. I fully understand that you give more than the amount of time that you're paid for. It's not about your time and all that you give. It's about the fairness. If somebody runs into you and another one does not run into you, it's not fair and democratic. [Applause]

susan stollak. Is she in the chamber? Currently not. We'll go to jessica ybarra. Whose topic is health and human services proposal. You have three minutes. Urksz my name is jessica and I'm a capital idea participant. I was born in austin and currently live with my grandma on montopolis drive. Although I have only been a montopolis resident for six years, my grandmother has resided there for over 50. We have all known individuals who have taken one or two college courses, and through frustration and debt it's definitely what my friends and family have come to expect from the college experience. I can honestly say I'm the first in my family to attend college and he will lewd the above scenario, although my journey has not been easy. Since I grew up around the medical profession and wanted to help people i started working for a home health company. After a few years budgets were cut, one which included my position. Unemployed I found myself at a crossroads. That semester I enrolled at austin community college, scraped by on the little funds I had set aside and vowed to myself to get a college degree. In other -- I'm sorry. In order to continue on my schooling I had to get a full-time job. As a result my study time was limited and my grades suffered. If I continued my current schedule I was sure to end up like others before me, frustrated, in debt and uneducated. That's when capital idea came to my rescue. My enrollment into the program included paid tuition and books which allowed me to focus on my education. I began attending tutorials and even organizing study sessions. 7, which put me in good standing to be accepted into 's highly competitive nursing program. With capital idea's support I have -- [applause] -- I have the guidance i need to be successful, the financial support I need to continue each semester without interruption and the confidence advise others on how to do this same for themselves. When my friends and family saw me enroll semester after semester, their interest piqued and they once again became interested in the higher education process. Thanks to capital idea I am changing their expectations. I have brothers and sisters now enrolled in college. Two cousins enrolled in capital idea program. One in the process of joining. And I have taught half a dozen others how to enroll in college on their own. -- I am proud to be an example to others in my community who didn't think college was a

possibility. Capital idea has helped transform lives of more than 800 adults in central texas who have already graduated from the program. [Buzzer sounds] please continue your support for capital idea so that i and the more than 500 adults currently in the program can get the education we need to lift others out of poverty forever.

Mayor Leffingwell: Thank you. [Applause] hugh mayfield. Hugh mayfield. One more time. Hugh mayfield? Topic is environmental issues.

Yes. mayor and councilmembers. My name is hugh maefield, a fourth generation austinite washington to clarksville to where I stand today. I have a problem in my business to get through to the city, in order to get on the professional rotation list. As a former city of austin environmental board member, elected vice-chairman of the (indiscernible) taskforce, solid waste advisory commission and a panel, i would like to get input from you guys to see what else i can do to make a living in this city as a fourth generation austinite. I am an ex-military in the field of medium to long range weaponry with a security clearance. I can't you use that out here. I have to use the master's degree to use this familiar and give to this income and the higher tax bracket within the city of austin. Do you guys have any suggestions for me to do? If I can't come through the front door or the back door or the crack, what else is there to do? Thank you all so much.

Cole: Mayor?

Mayor Leffingwell: Councilmember cole.

Mayor Leffingwell: I would like to ask rudy garza or rece elkins to get in mayfield and to help him get through the process of becoming on our list. Thank you, mayor. [Applause]

Mayor Leffingwell: Tamara vannoy. Tamara's topic is the grant process for health and human services. Welcome. You have three minutes.

My name is tamara vannoy and I'm a board member of the central texas after school network. We're an affiliate of the national after school association and we work on having available after school programs and high quality after school programs. We're not involved in the grant process at all. We are just observing some after school programs that are part of that. I did attend the meeting yesterday and it was encouraging to see that there's some flexibility being applied to the process for the grant proposals. And we are happy that the anti-lobbying ordinance is being looked at. We would hope that organizations like ours that are unconnected to any proposal could serve as expert testimony or some kind of resource. And we certainly hope that the ordinary citizens can have access to councilmembers. That just seems reasonable and fair. We're also happy that the work session is scheduled for next week and obviously some gaps were identified yesterday and hopefully some gaps can be addressed. So there are two concerns that we would still bring up after yesterday's meeting. The first is regarding the work session next week. If the gaps are going to be addressed and the people invited to participate in that should be representing those areas, and particularly we believe that austin independent school district should be invited. They are agent a critical partner in all of the -- in much of what city council does. And they did have some proposals that were submitted. And this is more or less to answer a question that chairman shade had yesterday. You were curious if they had coordinated the four proposals that they submitted. And so I called and asked. And it turns out that one person wrote the four proposals. So they did take in consideration that these are just four critical areas with no overlap or abuse of the support of the city. The other concern that i would raise is something brought up by a couple of speakers yesterday. The scoring seems to be a little bit inconsistent and there was a suggestion to calibrate the scoring of the proposal. Owsh teadges is the prime time fannie mae with the austin school district. From the professional point of view they have a high quality program. They are definitely showing excellent success rate, excellent meeting their goals so we're puzzled they didn't receive a higher score in that area. Prime time was established so there could be more of a community support to the campuses. I can just give an example that many of the prime time campuses organized -- [buzzer sounds] okay.

Anyway, prime time definitely does work to get community connections to the campuses.

Mayor Leffingwell: Thank you. Those are all the speakers that we have signed up to speak in citizens communication. Without objection, the city council will go into closed session to take up five items. 071 of the government code the city council will consult with legal counsel regarding the following four items: Item 76, discuss legal issues relating to the city's historic preservation program. Item 80, to discuss legal issues relating to state farm lloyds as a subrogee of don rip miller versus the city of austin. Item 81, discuss legal issues related to open meetings act. Item 82 to discuss legal issues relating to redistricting and proposed city charter amendments. 074 of the government code, the city council will discuss personnel issues regarding the following one item, item 83, to evaluate the performance of and consider the compensation and benefits for the city clerk. Is there any objection to going into executive session? Hearing none, the council will now go into executive

Mayor Leffingwell:

[Indiscernible] legal issues related to items 76, 80, 81, 82, personnel matters related to item 83. Council, without objection, I would like to take the consent items only on consent and one discussion postponement on the zoning cases. Let these folks get out of here. And then go back and take up our morning agenda before we take up our discussion on discussion on the zonings. Mr. guernsey.

Thank you, mayor and council, my name is greg guernsey. I will go through the consent items and postponements including the one discussion postponement case that I'm aware of. The first item is number 85, npa-2001-a neighborhood plan amendment that I would offer for an indefinite postponement. The applicant has made this request. The related zoning case also requested for indefinite 85, case c 14-2010-0127 for the property located at 2001 and 2005 chicon street. 86 is case 02 for the property located at 2007 chicon street. This is a neighborhood plan amendment. The applicant requested an indefinite postponement of this item. 87, c 14-2010-0136 a zoning change request for 2007 chicon street. Again the applicant is requesting an indefinite postponement. All of the items that I've offered for indefinite postponement we will renotify before we have another hearing. 88 and 9 are discussion postponement items. I will sketch those for a moment and continue with the rest of the consent items that I believe I can offer at this time. 90, located at 4807 north quinlan park, zoning change to community commercial or gr district. Zoning and platting recommends gr-co or community -- or community commercial conditional overlay combined district zoning. This is ready for consent approval on all three readings. 91 is case c 14-2011-0020 for the property located at 1100 east 8th street. This is to -- to rezone the property to family residents, historic landmark, neighborhood plan or sf 3 hnp combining district zoning. The planning commission recommendation was to grant the sf 3 hnp combined district zoning ready for consent approval on all three readings. 92, case c 14-2011-0024, the property located at 1709 miram avenue, transit oriented development, todnpco combined district zoning to change a condition of the zoning. Planning commission recommendation was to grant the tod--np-co. This is ready for consent on all three readings. In this particular case the neighborhood planning contact team and the property owner came to a private agreement regarding this item, that's why I'm offering this for consent for you this afternoon. 93 and 94 will be discussion items, that concludes the item that i can offer for consent approval. Items number 88 and 89, if you would like I can read those into the record now and we can hear this discussion postponement request.

Go ahead. Number will 8, in the montopolis neighborhood planning area for a change to the future land use map for the property located at 6716 east riverside drive. We have a request for a postponement from adjacent property owners. That related item, the zoning change, case 89 is c 14-2011-0204. Again this is for the same property at 6716 east riverside drive. Again we have a postponement request by adjacent property owners. I'm aware that the neighborhood planning contact team and the montopolis neighborhood association are opposed to the postponement. Although I believe we at least have one individual ron thor, representing adjacent property owners I believe that wants to postpone this to the june 23rd meeting. I think that we have a couple of other postponement requests by others, but the date

was not identified. If you have any questions, i will be happy to answer them at this time.

Mayor Leffingwell: Was this the first request? -- I believe it's the first request on both 88 and 9.

Can we hear in favor of -- can we hear from someone in favor of the postponement for three minutes.

Mayor, mayor pro tem, councilmembers, ron [indiscernible] representing vargas properties an abutting landowner to this rezoning. We are against the zoning case proper, but we need additional time to study the effects of what this zoning case is going to have, not only on my client's property, but we also want to take a little bit of time and study effects of what this is going to have on the riverside corridor regulating plan that is currently in process. I understand that this -- this request does meet the requirements of the neighborhood plan. But I think that once the regulating plan, for east riverside, hits your venue, that you are going to find that the densities are not necessarily there to support the transit goals of the neighborhood plan. We need time to look at that. I think staff would -- would appreciate a little bit more time to look at the ramifications as well. I think you all have spent a lot of money, a lot of time, a lot of effort to try to achieve greater transit opportunities and we would like to see what the ramifications of this case would be on that. And are looking for a month of time to -- to study this so we can look at those ramifications.

Thank you, council, it's our long standing practice to grant postponements on first request. With that in mind, someone opposed to the postponement?

Mayor, before they come up, staff did request a postponement of this item on your may 12th agenda, but there was not a request from the property owner --

Mayor Leffingwell: First request by either of the [indiscernible] the applicant or the opponent.

Good afternoon, my name is charles briggins, here representing for the zoning case, we are opposing the postponement on the grounds that -- that we have been through this -- this process now since we submitted on DECEMBER THE 10th, OUR Neighbors have had months to study whatever the effects of this would be on their property. And they are asking for more time. And we have a viable project. We have approval of the neighborhood. We have the staff's support. They are in support of it. The planning commission recommends it. And we would respectfully request to be heard and allowed our project to move forward. Thank you.

Mayor Leffingwell: I understand that. But as I said, long standing practice to grant a first request. For postponement.

Yes, sir, I'm aware, thank you.

Cole: Mayor. I would like to ask mr. Thrower, our next council MEETING IS JUNE THE 23rd. Which -- which is a little less than a month. But we actually go on vacation or I should say some of us go on vacation --

next meeting is june 9th.

Cole: I'm sorry, june 9th. I guess that you had asked for a month, I was considering making a motion that we consider this item ON JUNE THE 23rd.

That was my request.

Okay.

That was your request.

Cole: Mayor, I move that we --

Mayor Leffingwell: Motion by councilmember cole to postpone items 88 and 89 UNTIL JUNE 23rd, IS THERE A second? Seconded by councilmember riley. Further discussion? All in favor say aye?

Aye.

Opposed say no. Passes on a vote of 6-0 with councilmember spelman off the dais. Our consent agenda for zoning cases is postponed indefinitely. These will all require renotification, items 84, 85, 86 and 87. And to approve, close the public hearing and approve on all three readings items 90, and 91, and -- and to -- to close the public hearing and approve on all three readings item no. 92. That's the consent agenda. Entertain a motion for approval. Councilmember morrison moves approval.

Second.

Seconded by the mayor pro tem. All in favor say aye?

Aye.

Mayor Leffingwell: Opposed say no. Passes on a vote of 6-0 with councilmember spelman off the dais. So with that, we'll go back to our morning con items. And -- let's go straight through. Item no. 24 is first. There's one citizen signed up to speak. I believe it was only pulled off to -- for executive session. We'll hear from our citizen speaker and then entertain a motion. Gavino fernandez. Gavino fernandez. Signed up as neutral. And you have three minutes.

Good afternoon, council, my name is gavino fernandez. I'm coordinator of el concilio, the coalition of mexican-american neighborhood associations, I'll be speaking to you today as lulac district 12 director. First, I would like to begin by following a tradition of ours of respect and by congratulating councilmember morrison, councilmember riley on your victory on this past election and we look forward to continuing to work with you as we move along and as east austin faces many challenges day by day. I do want to make a couple of comments regarding this -- this resolution. I didn't find in there a specific date and it was my understanding, mayor, that -- that you had announced that we were going to have an election on districts, on november of 2012. And I don't know if all of this information that's being -- that's embedded in this resolution is targeting that date. And in respects to time lines. I want to real briefly speak about -- about the turnout this last election. Pan am, montopolis, allen, johnson, sanchez, govalle, [indiscernible], all of those boxes totaling -- a total of 552 voters came out to vote. That is very sad. For a city that lives in the capital of the state of texas to have that type of vote turnout for our community. That is why it's very important that we expedite this process of getting geographic representation in place and that it be a process that is -- that is open and to the public. I do want to read a message from -- from change austin. We urge you austin city council to open up the process for developing a full community supported plan for single member districts, geographic representation. The process that you have now is too insular and devoid of community input. We ask that you allow for the community to come here presentations and give the full input. Without an open process, no plan you put together has likelihood of passage. Or if passed, of making a real difference for austin voters and their increased participation. The bottom line is, must allow for community buy-in from across the city of austin to work. Again, we'll be joining with you in this effort in bringing fair representation to austin. And in closing I do want to -- to just let you know that -- that bishop vasquez has appointed a new pastor for christo rey, marrow castro martinez and gilleremo for the church and we hope that you will join us in welcoming them to our community. I had the opportunity of having dinner with them last week. Had a

very good discussion and we will be moving forward. Thank you, mayor, for the opportunity to speak to you.

Mayor Leffingwell: Thank you and just to make clear, we're considering items 24 relating -- related to item 25, both of those items together. And your remarks pertain to both of those items. Thank you. And just -- just a question that you raised, as to the november 12 date. That has not been set. The time table we'll be discussing later. But it could be anywhere between the time of november of 2011 and november of 2012. So with that, I would like to ask staff to give us a brief presentation on items 24 and 25.

Sabine in a ramirez, city legal. I have a few comments on items 24 and 25, they are both resolutions. The first is on districting criteria and the second is on districting guidelines. And these are meant to make information available to the public about what the city's considerations will be in the process of -- of the maps and charter amendment process that we're going through. Pursuant to the resolution passed back in april. So resolution for item 24, legal criteria, basically lays out the federal guidelines for districting that the city will be keeping in mind as it goes forward. And these are voting rights act based considerations, constitutional considerations, just to give you a few examples. The resolution mentions that where practical, the city will be using identifiable geographic bound degrees for map drawing that will be keeping together communities of interest and designing districts composed of whole voting precincts. Just to give you some examples. The complimentary resolution at item 25 is guidelines for input. The -- the direction from council is for staff to bring forward maps, but we also want to let the public know how they can also participate. So the resolution number 25 let's folks know that if they would like to make comments, if they have plans that they would like to suggest, they should do so, for example, in writing. That they should address the needs of the whole city, if they present maps, that they are welcome to comment on specific concerns of particular neighborhoods. And that they provide us full identification information. Now, the reason that we're asking for full identification information from -- folks who submit comments and materials is because this is the process if it passes will need to receive preclearance from the department of justice, the federal department of justice. And they may have follow-up questions regarding requests or comments and we want to be able to forward the necessary information for that conversation to occur. So it's more information than we usually ask from commenters, but it's because we're participating in a bigger process that will require some follow-up.

Mayor Leffingwell: Any questions or comments, councilmember cole?

Cole: Yes, sabina, can you give us a little bit of information about what you have seen or know about other cities and the public process that they go through before they actually put an item like a redistricting on the ballot?

There's more than one approach to the process. For example, san antonio in its last redistricting process had a citizen commission. And that commission was created to -- to hold hearings around the city, be a representative body, that's the approach that san antonio chose. Compare that to houston. Houston when it did its last process rather than having a commission that led the discussion, they had staff that led the discussion in the sort of a district by district fashion and those meetings might have been attended by the councilmembers specific to that district or the mayor, but not the entire council, per se, not led by a citizen commission per se. So those are examples of two different ways to do it.

Okay. I appreciate that input. Because I am -- I am convinced that this issue has risen to enough prominence in the community that we should send it to the voters. But despite coming to that conclusion, I want that done in a fashion that has adequate citizen input and that -- in an orderly fashion. So I think that I would like an opportunity to work on a resolution that puts forth that -- that option. So I'm looking at item no. 25 And the last -- the last resolved clause number 7 sets out a deadline that plans from the community should be submitted by FRIDAY, JULY THE 8th. And I would like to strike that paragraph in its entirety. And bring forth a resolution at the next council meeting setting out a -- a citizen review commission for this item and giving that commission the potential authority to hear from the citizens and ultimately make a recommendation to council. So I believe that I have to -- that I have to do

that in the form of a motion.

Mayor Leffingwell: The motion would be to approve items 24 and 25 with the change of striking that one paragraph. From item 25. And with the -- with the additional advice that you will be bringing forward a separate resolution with regard to the public process at a later date.

Cole: So moved. [Laughter]

Mayor Leffingwell: So moved. Motion by councilmember cole. And seconded by councilmember spelman. I would just add as the stands now, I want to make clear to everyone that striking the paragraph nearly adds -- merely adds flexibility to this program. We hope that we'll have additional time for a more full some public processes and we'll do everything that we can. I will strongly support councilmember cole's efforts in that regard. I also want to emphasize that as it stands right now, the resolution basically obtain contains three options. That is a -- that is an option that has six districts, two at large members and an at large mayor and an option that has 8 districts and of course an at large mayor. Another option that has eight districts with an at large mayor, but the districts are not true districts. The district requirement is only for residency. They would still be elected at large. So those are the three options that will be under consideration going forward. Any more comments? Mayor pro tem?

Martinez: Thanks, mayor, I will be brief. fernandez, I just want to add a little more clarity as to why there is no specific date for calling for the election. The mayor called for a november 2012 election, but the city charter can only be amended once every two years. It can also be amended by a petition drive of citizens. So we have to leave it open ended so that if somebody does a petition drive, for this november, to make a charter change, anywhere in the charter, we have to be ready to go by this november. Or by next may or by november 2012. We left it open ended. Our goal is still to maximum public input and call for it for november 2012, but we had to be ready this year in case someone did a petition drive. Otherwise it would be off the table for two years. Wouldn't be able to even bring it up for two years. That's why there's no specific date as to when the election will occur.

Mayor Leffingwell: Thank you. Anything further? All in favor of approving items 24 and 25 with the amendments made by councilmember cole, the maker of the motion, say aye.

Aye.

Mayor Leffingwell: Opposed say no. Passes on a vote of 7-0. And item no. 34 was tabled. On a council motion. Are we ready to address item 34 now?

Yes, mayor, I would like to. Thank you. We too have one citizen signed up to speak.

Oh, I would be happy to --

Mayor Leffingwell: Kelvin newman is signed up neutral. You have three minutes.

Good afternoon, thank you for the ability to speak at this point in time. I was listening this morning about the contrt and I saw the distance between the -- what the contract -- what the figures were for the people who had the contract and one of your councilmembers and I think that one of the things that we should realize that, you know, trying to -- what was it -- what were the numbers for? Was it -- did it include the administrative costs? [Indiscernible] hiring of temporary people and can you -- if you just hire temporary people as she put it up just for -- just for atwo months or whatever, for, just -- just -- the cost of hiring someone, hiring someone, and using that 12 month and using for other -- other projects that the city may have, against -- also because if you don't use them, you probably have to have -- hire other people for those projects. And also using this as an avenue for -- I want the councilmembers to think about using this as the avenue of getting people, hiring people who are maybe unemployed or

underemployed. And using this as the avenue of getting people that maybe have no job at this point in time and instead of trying to get professionals on there. Because he said that one of the -- one of the things about it is that the turnover rate, one of the possibilities is because the turnover rate because you have tried to hire someone in a temporary position and keeping them for two months, you know, they are -- they are automatically going to go to a job that's going to have some benefits. Have some -- that's going to be, you know, more overturn than what the -- what the electric company wants. And what I didn't -- I still want to know but what was the cost benefits against hiring someone long-term, against hiring -- putting someone in a temporary position there? Can -- what -- because the numbers was still -- the council woman had different numbers, the -- the electric -- the electrical utility had different numbers that you get to reconcile those numbers, also. Like I say, one. Things that I wanted to speak about is using that -- that is a great chance of trying to put people in that position or making sure that some of those positions go to people who are maybe lower income, unemployed, because that can get -- give back to the city [buzzer sounding] it can give back to the city. And it can probably also have a chance of reducing this unemployment rate --

Mayor Leffingwell: Your time has expired.

Thank you.

Mayor Leffingwell: Thank you. Councilmember morrison?

Morrison: Thank you, i would like to thank mr. Newman for coming down and making exactly my point. That is we're looking at spending a large sum of money for temporary contract employees and shouldn't we be careful and look at the opportunity we have here to actually provide full-time jobs with benefits for people as city employees. And so -- so I've been working with our staff here, johnson, what we've come up with as a way to move forward here is a possibility of approving this contract only for one year. Instead of the four-year extension. In the meantime to ask staff with the -- you know, with the call center and the utility, customer center and , to go in and analyze, if we can't put together a program where -- where i understand that there are issues in terms of training and we need to have people that are willing to stay on and always be there, but newman said, if they're not working at the call center, if we can somehow move them over to other jobs and really bring something good for the city and for 100 individuals or so. weiss, could you speak to that possibility?

Yeah, this is larry weiss, general manager of austin utility. That's fine. The next time around we will do more analysis and show you. I will point out that -- that this call center group that we have with austin energy is a high turnover. This is where a lot of employees come into the company and then they move up and so that's another one of the reasons for this. But we can certainly work around that and make it happen.

I think that would be terrific and the -- you know the -- the idea that they have other -- they'll have off time because during the peak period, maybe there could be some opportunities for them to do fulfilling things that -- that would mitigate whatever it is that makes the call center a high turnover center.

I will challenge the staff to look into that.

All right. Great. So -- so I think mr. newman for coming down and making the point, also, so with that i would like to make the motion that to item 34 that we approve award negotiation and execution of a 12 month requirement service contract to appleone employment services as noted here. In the record.

Motion by councilmember morrison to approve item 34 with modification that it would be 12 months only to negotiate the executed contract for 12 months only and the same \$4.5 million.

Morrison: Yes. I apologize, with direction, additional direction to staff to come back to us and see what

kind of -- what kind of alternatives you might be able to work out.

Mayor Leffingwell: Additional direction for consideration renewal. Then. Councilmember spelman seconds.

Spelman: Yes.

Mayor Leffingwell: Do you have a comment?

Spelman: I have a question if I could, mayor. Larry, I'm not sure that you are the best person to ask the question of. There you are, so I will ask you first. Whenever I make a call into a call center, I've never had a -- I've never had to call 311 or at least not recently. Whenever I call from my computer somebody says calls may be monitored to ensure quality assurance. Do we do that with 311?

I don't know to be honest with you. I don't know if we do do that. And I've been abandoned by my staff today.

Spelman: I noticed that [laughter] ..

Spelman: Here's where i was going with this. If we are, we have an opportunity over the next year to verify or

[indiscernible] by suspicion, if people have been there for a while, been well trained and had some experience [microphone problems] probably do a better job of helping people with 311 complaints than the temps will. Because temps don't know the job of answering phones and addressing concerns really well but simply don't know all of the options available in the 311 system. I may be wrong. They may be just as good or better than our full-time employees. But if there is a way through the standard operating procedures that we could determine which of those two things is true, i think that would have an important bearing on what happens next [indiscernible] [microphone]

we can sure put that analysis as part of our work coming forward.

Spelman: If you could do that, I would sure appreciate that. Do you consider that to be additional direction from council, I would appreciate that.

Mayor Leffingwell: Day or two direction accepted by the maker -- additional direction accepted by the maker? I would say that makes sense. If you are a 311 operator, you need to know everything there is to know about the city. Definitely experience is going to be a big factor in that job. Any further discussion? On the motion? All in favor say aye.

Aye.

Opposed say no. Passes on a vote of 7-0. That brings us to item no. 75. 75 Has two citizens signed up to speak. Pulled off the agenda, i believe, by councilmember spelman. Do you have initial comments? All right. Ty holder. Ty holder. If I say that wrong, please correct me. Signed up for. And you have three minutes.

Thanks. It's kyle holder.

Mayor Leffingwell: Kyle?

Says ky on mine.

Sorry. I'm actually the vice chair of the early childhood council, but I'm not here in that capacity today. I'm here speaking as a citizen of austin. I personally applaud this resolution for the funding for at-risk youth and I will be working with the early childhood council to give you a recommendation about it. They actually had a meeting yesterday to discuss it. I'm here speaking as a citizen because the early childhood council has been strongly advised that even though a quorum of our council doesn't have conflict of interest with rfp for the social service contracts, that -- that any forwarding of our recommendations to the city council on the social service rfp could potentially reject some of our members, even recused members to the possibility of being disqualified from the r.f.p. process. And as you know the early childhood council is charged among other things with giving recommendations to city council, concerning programs and activities that contribute to -- to the continued development of a system of high quality early care and education from austin's young children. And as you also might know in the same council, then the early child care council, twod this comprehensive early child care and education system in 2001 and presented it to the city council as a model framework for improving the way austin helps the most vulnerable citizens of austin. The early childhood council has spent the last decade recommending to you appropriate programs to be added to that system. With such things as home visiting programs that help with issues like low birth weight babies, child parent bonding and parent education. Especially on child development issues like brain development stages of early childhood development and appropriate nutrition. We have advocated for child care teacher wage supplements and scholarships as well as accreditation mentoring centers, increase child care quality, ly translating into more children being ready to enter public schools. Early intervention programs that help identify child's needs before they become that child's problems are addressed and services for abused and neglected children that may have been otherwise been headed for child protective services. We also help to attract success by six which has been a boone adding more quality structure to this early childhood development framework. Our recommendations to you and your actions that have funded these programs for the past decade are in jeopardy. When the social service was announced, it was obvious that the criteria would not allow child care quality or child development programs that are mainly prevention programs to score at the highest levels as it was heavily weighted to focus on homelessness and poverty. It was very surprising that such a major change to the way the city awards social service contracts was undertaken without asking for input from the city board charged with giving the austin city council recommendations on early childhood matters. The austin early childhood council. I could continue I have a couple of perhaps.

Mayor Leffingwell: Unfortunately that's your three minutes. Thank you very much. Laura koenig. Laura koenig. Laura signed up neutral. And is not in the chambers, so those are all of the speakers that we have. Councilmember morrison? I mean spelman, excuse me.

Spelman: We're often confused [laughter] I want to be sure that i understand the item. It states that the city manager's directed to prepare a budget amendment for one-time transfer of 350,000 and 200,000 from the general fund. So it's a total of 550,000, but this is a one-time only, this would not necessarily carry over [indiscernible]

that's correct.

And this is not money which would be taken away from the social services solicitation [indiscernible]

that's correct.

New money for a whole different problem.

This is new money and it's really sort of -- the genesis of transferring this money over came from last fiscal year when we found that among all of the savings that we had, as was needed, you know, to meet our budget, that the health and human services department saved a million. And so the discussion was

about the questioned whether it really made sense to be saving money from social services in a time of high need. So the idea here is to try to move that funding back to address [indiscernible] in a time of high need.

Spelman: Or at least some of it, not all of it because if you saved a million dollars, you are only talking about 550 here.

Morrison: We actually were able to move some funding, 370 or \$80,000, when we approved the budget last time in september of 2010 over to health and human services. And we were also able to at the same time to -- to accelerate some funding -- some spending for social service contracts, so the idea is that this wraps it up to make up that million.

Spelman: No longer think about rating that budget. You have already rated it successfully. Okay. It also suggests that the city manager is [indiscernible] types of program needed to fill the gaps that we have in our social services network for kids. Does not presuppose any particular presentations program or providers of programs, correct?

Correct.

When we get back a list from the early childhood council on the types of programs that we should be spending money on, what are we going to do next?

Well, I assume that actually we're going to be -- we're in this process of -- of overall looking at our social service contracts and so when we get this back, I assume that it would make sense for us to -- to try to see where we are on those other social service contracts and see if this could impact, help to move some of those over.

Spelman: So we may be able to simply take the proposals which have been provided as part of the more general social services solicitation and increase funding for some classes of those which address [indiscernible] youth at risk.

Morrison: That is a definite possibility. But because this is a one-time funding thing, it needs to be somewhat outside of that process.

Spelman: Okay. So we could -- however at least have a basis for the proposal we have already got in hand. If that were not sufficient, to address the program needs, would you envision having another -- a secondary solicitation process or how would you go about it.

Morrison: At that point we would need to discuss about how we would want to do it. I'm open to whatever. I think the health and human services subcommittee might be a good place to have that discussion about what would be most appropriate. Neil when that time comes, if the turns out the proposal we already have [indiscernible] I will be arguing in favor of getting further proposals and not simpler earmarking agencies.

Morrison: I hear you.

Cole: Mayor, I have a couple of questions, also.

Mayor Leffingwell: Councilmember cole.

Cole: I recognize that I am a co-sponsor, but i would like to make a friendly amendment to the further

resolved clause and ask that the recommendation --

Mayor Leffingwell: You want to make a motion first.

Cole: Yes, I would like to make a motion for approval and then I would like to -- to make a friendly amendment to the be it further resolved clause and ask that the early childhood council recommendation also be sent to the african-american resource commission as well as the -- the hispanic quality of life committee because both of those commissions and committees deal with at-risk youth, also. And I think the more input that we have, the better we are informed.

Morrison: I would like to -- that was a motion, right? I would like to second that motion and I think that's a great idea.

Mayor Leffingwell: Motion by councilmember cole to approve item 75 with additional direction and seconded by councilmember morrison. Councilmember spelman?

Spelman: Would it be appropriate, councilmember cole, to solicit recommendations not merely from the [indiscernible] but also to early childhood council but also to solicit recommendations [indiscernible] [microphone problems]

Cole: Yes, I guess, okay. Let me restate the amendment and the motion is on the floor with the second. The amendment would say that there would be an exchange of recommendations between the african-american resource commission and the hispanic quality of life and then hopefully we can receive some consensus between all three commissions that would actually come to council.

Morrison: That's fine.

Cole: I would like to --

Mayor Leffingwell: Restated additional direction is okay with the second. Go ahead.

Cole: I think it was kyle who was vice-president of the early childhood development council, first i want to thank you for your service. We recognize that we have put many, many social service providers in a difficult situation as well as some of our boards and commissions that deal directly with the issues affecting them. And we assure you that we are working on it. And I will also ask the city manager and he can respond to this if we can have a lawyer actually come to your next early childhood development committee meeting about the whole ethics issue. Because I don't want you to feel like you cannot do the work that we have charged you to do. Because of work that you have previously done in advising us about social service contracts. That's a nod from the city manager. I think that means yes.

Mayor Leffingwell: That is affirmative.

Also, john steiner has come to our meetings and he did instruct us to stay out of it.

Cole: Okay, let's see what we can do with this resolution.

Mayor Leffingwell: Okay. Councilmember shade? [One moment please for change in captioners]

Shade: I guess my question is also as we're trying to contemplate transition and having the work session that we discussed as well, why this would get done by june 23rd as opposed to kind of seeing how some of these things fall out so that you're not soliciting new applications at a time that we haven't really figured out how all the dust settles in the other process and especially because we've made this

commitment that we're going to see this through so that transition is smooth and that one time funding is really ideal for that kind of transition. So I guess that's my question is why this approach as opposed to waiting to see how things shake out in the next two weeks.

The way I see it we're not soliciting applications with this. The resolution asks for ideas on the types of programs needed, so this is a first step in getting ideas on how we might use the funding. And I do want to stress it's one-time funding so it is a different kind of funding than we're looking at with the r.f.p. process.

Shade: But might one time funding be something like transition assistance if an organization isn't going to be funded?

Morrison: That would be a possibility. Because there's special interest in at risk youth and early childhood programs, this is just to get the conversation started so that we can get some ideas about what would be the effects of programs if we don't in the end have to use the money for that.

Shade: The other thing is I want to make sure from the city manager's perspective, again, because this is a high need area and we've certainly seen that reflected, is this part of the conversation that you're having with respect to how we might offset cuts that are affecting isd and particularly when it comes to after school and pre-k activities, which this seems like it might address?

I want to make sure that I understand the question. Is the issue at hand part of the conversation that we're having relative to the social service contracts or is our conversation with aids --

Shade: As you're having the conversation with aids about ways that you might be able to offset some of the funding concerns that they're dealing with, particularly examples that we've talked about were after school pre-k, things that the city is already in the business of doing. I know we've talked about other things like public safety and so forth, but it would seem to me that as you're developing suggestions for how this money might be spent, especially on a one-time basis, that it might be useful to think about the discussion you're having with aids because possibly some of those might be -- we've heard lots about aids after school programming, for instance. Would that be in the realm of things that you would be suggesting?

It makes some sense to consider these dollars that we're talking about today in regard to things that are on the list that we've generated relative to our conversation with aids. I don't know that I can point to anything specific for you as I sit here, but certainly it makes sense, after we've made some decisions about what we can do together, because there are some limitations in terms of as I understand it in terms of what the schools and the city can do. It may make some sense to look at the source of funds, among other sources, to accomplish some of our objectives.

So basically --

Shade: So basically the idea is over the next couple of weeks you're going to know that there's x amount of dollars, which I guess it's \$450,000, \$550,000, that there will be -- you will be making recommendations as to how that money could be spent. In discussion with the groups that we're talking about? I'm not following that.

Morrison: Are you talking to me or to the city manager at this point?

Shade: Who is going to be deciding -- who is going to bring forward the recommendations? The city manager is being asked to bring forward recommendations, isn't that correct?

Morrison: The city manager is asked to solicit recommendations from the early childhood council about

types of programs.

Shade: Types of programs. So you're going to bring those back to us. Will you have any other recommendations associated with it or will you just be soliciting it from this one group I guess is my question?

We're going to carry out the specifics of what's being directed by way of this resolution.

Shade: So that's three groups now that will be giving input for your recommendations. Is that --

Morrison: We're asking that those three groups look at it, but certainly we hope that they've put together a process so that it comes to a consensus, as I understood the amendment.

Cole: And that will come to council. Is that your question, councilmember shade?

Shade: It looks like the city manager is going to solicit recommendations from the early childhood council and then these -- and the two commissions. Is that right?

Cole: The african-american commission and the hispanic quality of life commission.

Shade: But there's no parameters other than there's a 550,000-dollar pool of one-time funding.

Morrison: And to go back to it, it's about types of programs. It's not a matter of making a specific recommendation about a program to be funded.

Shade: Okay.

That's the work to be done.

Morrison: That woulding the work to be done and that can be integrated into the conversation about transition, it can be integrated into the conversation that the city manager is having with aisd. So it will provide us some information.

Shade: I'm all for that, but I want to make sure we do whatever we can to connect the dots. With what parks department does, what -- we've had this conversation a couple of times now, but I want to make sure that we solicit those and that we don't forget about what we're talking about trying to do with aisd ace and we don't forget how difficult the transition will be. I know that's the point of doing this, to increase the availability. So I support it, I just wanted to make sure that that was clear.

Morrison: I think this is just to get focus in one area and some ideas from some of our citizens that are involved in it. Definitely connect the dots.

Shade: I also echo the thanks for the people working so hard in these fields.

Mayor Leffingwell: I have a question for the city manager. lumbreras, is it fair to say that this -- what we're talking about basically is leftover unwill indicated money from the health and human services budget for the year we're in now?

I would have ed respond to that, mayor.

The funding that we're talking about is funds that were left over from fiscal year 2010 budget. In that budget the health and human services department ended the year with one million dollars of

unexpended funds. By charter those funds fall to the bottom line. They fall to fund balance, to ending balance. In order to allow them to use those funds, council needs to reappropriate them and authorize the expenditure.

Mayor Leffingwell: Is that not what I just said?

I think you talked about from this year. They were not funds from this year's budget, they were funds from the prior year budget.

Mayor Leffingwell: So this is not without precedent. I recall we've done it before, taken these unallocated funds and reallocated them within the health and human services budget. Where they originally were. But this is -- it seems to me it's kind of like that, only with some financial jim gymnastics thrown in. But I'm talking about in reality.

In reality I don't think it's an unprecedented action at all and there are some financial gymnastics.

Mayor Leffingwell: I want to make sure -- I total understand councilmember shade's concern that we are in a difficult transition period and we don't want to get totally thrown off track, but this is a one-time thing only. It's basically the reallocation of all preauthorized funds that were not ever spent.

Correct.

Mayor Leffingwell: So with that -- keeping that in mind that we don't want to financial a change in direction, at least not at this point in our overall health and human services policy that we've embarked upon, I'll be supportive of the motion.

Cole: Thank you, mayor. I just had a couple of comments.

Mayor Leffingwell: Councilmember cole.

Cole: I again wanted to reiterate that this item or handling this funding was discussed during our budget deliberations after the city manager had already given the budget in its final form to the council. And it was also discussed and passed in the actual budget deliberation on our final vote. I mean, the unallocated portions. And that was done before we had as much of -- the aid issue wasn't so glaring. And our resolution had been passed. And it was also done before we had really made the changes that we've made to the matrix. So I look at this item as simply following up on our budget deliberations and the final budget votes.

Mayor Leffingwell: Further discussion? Councilmember morrison.

Morrison: Councilmember cole, thank you for pointing that out and giving that background. And just to add to that, to remind everybody when we had the discussion back in september when we were deliberating the budget and it was clear that the million had been saved and we were able to move some of it at that point in the final budget vote, the other part of it we wanted to hold off on just because there's that whole, you know, finalization of the fiscal year expenditures and all to make sure everything trued up appropriately. So we were being a little bit conservative, and that's why it's happening this many months later. But I think that, you know, in time of need with a lot of folks needing jobs and all sorts of other needs that etcetera good that as much as possible we're able to dedicate funds to health and human services. So I appreciate the support on this.

Mayor Leffingwell: Motion on the table. All in favor say aye opposed say no. It passes on a vote of seven to zero. Item 76, one citizen signed up to speak, but only if there are questions. And I believe

councilmember spelman, this is your item.

Spelman: Mayor, it's very quick. Since 1978 the city of austin has recognized that our historic landmark process and program puts certain demands on owners of historic properties. Which reduced their property rights and increased their maintenance costs. The reason we have a tax exemption program for owners of historic properties is to recompence them for the increase in property rights and for the increase in maintenance costs. Before us today is a resolution which would adjust those tax benefits to be more in keeping with what we have come to understand those property rights and those maintenance costs are actually worth. But there's been a challenge recently as part of the recent court case that suggests we need to go a little bit further than that and to individually tailor our tax benefits to be consistent with the individual property rights, reductions and maintenance costs associated with individual properties. I want to be -- ensure that the city of austin is acting in a way that is consistent with the texas tax code, and we will be getting further direction from a district court judge on this matter after a temporary injunction hearing which I'm now given to understand is going to take place in july. Is it july, lela? Okay. With that in mind since we're going to get further instructions from a district court judge or there's a good chance of that in july, it will determine whether our current program is consistent with the tax code or not, I would like to postpone further action on this resolution until our meeting of july 28th, but at the same time not to wait just for the judge, but also to direct staff to the on its own review the city's property tax exemption process for historic landmarks as set out in city codes. And to determine if changes need to be made to ensure that the process is and stays consistent with the texas tax code section 11.24. So postponed until the 28th.

Mayor Leffingwell: Motion by councilmember spelman to postpone this item until july 28th with additional direction to staff. Is there a second? Seconded by councilmember morrison. Discussion?

Cole: Mayor, I have a brief comment.

Mayor Leffingwell: Councilmember cole.

Cole: I just want to express that the -- that -- I think I can speak for all my colleagues, we've heard the general public and their concern that we exercise more scrutiny over the designation of historical landmarks, and that we're in that process and that is what councilmember spelman and councilmember morrison are diligently working on. And as we go through that process there's just been several hurdles, and this is a legal hurdle, but as we go through it we're also making the additional effort to reach out to some of the other taxing jurisdictions, specifically the school district, and we just do not want to let it go until we get it right.

Mayor Leffingwell: All in favor say aye? Opposed say no. It passes on a vote of seven to zero. Back to our zoning cases. Mr. guernsey? What have we got, 93?

Yes, your next item is number 93, number 93 is case c-14-2010-0199 for the property located at 402 corral lane. This is the zoning change request to general commercial services mixed use conditional overlay combining district zoning. There is a petition that's been failed on this request, I'll just note at the outset, but it has been reduced now to 23.33 percent. And there should be a copy in yellow on the dais. The property is about 1.5 acres in size. And it is used for a construction sales and service type use. There's some storage or warehouse type structure that's on the property. It was previously used as a residence and then converted to an office area. There's also some residences in a separate structure on the property. There was a request to see if the property could be grandfathered as a nonconforming use, and staff determined that most of the property could not be grandfathered based on the information that was submitted by the applicant and city records. Staff believes that the guerrero residence was used for construction sales and services use, but not all of it. In addition, there were outbuildings that were permitted after annexation in december of 1975. The structures that were added were a garage and a storage building, which are towards the rear of the property. Those buildings when they came in according to our records were shown as residential uses. The subject of the rezoning area consists of

two platted lots that are mid block on corral lane. The development, as i mentioned, for the uses of the nonresidential use, the construction sales and service, the storage and some residences on the property surrounding this to the north and east and west are single-family type uses on larger lots. To the south is manufacturing company. I know it was previously called art carve ring, but I'm not sure what the current name of the company is today. In consideration of the applicant's request, the staff also further looked at tcad records, aerial photography, previous zoning cases along chaparral, which is a road further to the north and corral lane from the late '70's forward. Tcad records indicate that the single-family residence was constructed in the 1960's and a second two-story residence presently a three unit apartment building was scruded on the west lot in 1974 prior to annexation. Aerial photography and zoning maps indicate where the residences on the west lot was. By the mid 80's, although it's unclear if it contained more than one unit. Tcad's records also indicate that the warehouse structure and attached storage structures were built in around 1977. We do have other zoning cases that took place nearby. There were properties that were rezoned to sf-3 that were on the same street. We've had some other zoning cases that asked for more intensive zoning, but those cases that were changed were limited to those properties that had frontage closer on i-35. At that time I'll pause if you have any questions. I believe you have at least seven speakers on this particular item, mayor.

Questions of staff?

I forgot to mention the planning commission recommendation was to grant the cs-mu-co combining district zoning for construction sales and service. Also allowing administrative business office, the existing residence and limited to the existing building coverage and impervious cover. And not to require right-of-way dedication. And that was on a vote of five with one abstention.

Mayor Leffingwell: Councilmember morrison.

Morrison: I just wanted to understand the issue about right-of-way dedication.

Yes. The zoning if it was zoned to be a less restricting category, 35 feet of right-of-way would be requested from the center lane of corral lane. That doesn't exist. Right now the adjacent properties, there hasn't been active rezoning cases or dedications on the lots that are residential on either side of this lot, and throughout most of the street as well.

Morrison: Okay.

Mayor Leffingwell: We'll go to our public hearing. The first speaker for is terry eron. Are you the principal speaker? You have up to five minutes.

Thank you, mayor, members of the city council. My name is terry erion. I'm here representing the guerrero family. The legal owner of the property is warrior limited liability company. It is a company made up of members of the guerrero family. Billy guerrero is the president and his sister dolores is with him and her husband, stewart davis. Those are the guerrero owners of this business. They have been in this property since 1963 when billy and dolores' father clarence built the family home there. And from the very beginning in 1963 the use of that family home on those two 58 acres, was residential and construction sales and service. It was never a home occupation. There were always a number of employees. In fact, the original motivation for converting one of the existing buildings in 1974 into the triplex was to have, you know, available low cost housing for some of the employees. And on and off there have been employees living in one or more of those units ever since 1974. Clarence and stella moved out in 1986, 1987 time frame. And the family continued to operate the business, expanding into the entire residential structure. They always had accessory structures. There were a couple of garages on the property. We don't dispute what guernsey said that there were two storage structures built after annexation. I think annexation was december 31, 1975. The permit for the last storage structure was taken out in '76 and built in '77. We understand that we're coming here with a hard case for you to decide. But the only reason the family is coming here asking for this zoning is because of a notice of

violation that was filed in the speak of last year when the city finally realized that there had been this business operating out there for 48 years. 48 Years! We're now -- we believe that this is a legal nonconforming use. I don't disagree with any of guernsey recited, but we do disagree on the interpretation of what is required for a legal nonconforming use. But be that as it may, guernsey has made his decision. So it comes here to you with a hard choice, grant the cs zoning or drive this family-owned business for 48 years out of austin. And that just doesn't seem to be very fair. The staff has indicated in their report that they don't recommend this because they believe that this is not a compatible use. In the last year there really have never been any complaints in the neighborhood. And I think 47 years of peaceful co-existence is some demonstration of compatibility with the neighborhood. In fact, it was stated by several zoning and platting commission members who went out and did site visits that it is one of the best maintained properties in the neighborhood. So we would ask that you follow the recommendation of the zoning and platting commission and grant the cs zoning. I'll be happy to answer any questions you may have on this.

Mayor Leffingwell: Questions? Next speaker in favor is billy guerrero. You have three minutes.

Thank you, council. Our parents' dreams, dolores and I and my other six siblings, were to have this fine residence, carry on a business, pass it on to their kids, actually they planned to settle and retire in the cemetery right down the road. So their dream is coming true and certainly I have a lot of honor and pride and responsibility to carry that. I feel like from september of '08 it's been very difficult for us and unbelievable amounts of hours to make sure that our business continues and we never lost an employee, and we kept good care of our residence. I've lost a little bit of sight for the neighborhood, but I have no doubt that we can take care of all of their wishes and make sure that traffic is at a minimum. That our place is clean and that the entire neighborhood respects and appreciates our business and our family. And we hope that y'all can assist us with that. Thank you very much.

Mayor Leffingwell: Thank you.

Martinez: Mayor?

Mayor Leffingwell: Mayor pro tem, question, mr. guerrero.

Martinez: I just wanted to ask, so the operation that's been going on for four decades, you don't plan on expanding or adding to that operation other than what's going on there today?

Not a single amount, that's correct.

Martinez: In fact, nothing will change. You'll do whatever you can to improve the operations and minimize any impact to the neighbors?

Yes. Probably increase the value of that in a residential way.

Martinez: I want to make sure that you were able to share that publicly and on the air because those are comments you've made to me in our meeting and I think they're pretty significant. I think, one, you have an impeccable reputation in the community as a businessman and as a neighbor, and so i think you making those commitments are substantially significant.

We are absolutely committed to that and we'll continue that.

Martinez: Thank you.

Mayor Leffingwell: Last speaker in favor is jim bennett. And you have three minutes.

Council, I'm jim bennett and I'll try to be brief and non-repetitive, due to this voice problem as well. I originally filed this application on behalf of the guerrero family. And as others have spoken to you today, as you can see in your backup material, there are affidavits from property owners in close proximity from the tbift's saying that they have known and lived in that neighborhood and that this business has been going on. Additionally the original petition I think was about 60%, now reduced to 22%. Those are large country estate kind of lots that are one acre to two acres in size and to we could not get the petition reduced below the 20%. The petition in the affidavits, the businesses, the insurance agencies that did this business for these loans period of time and checking with the staff and the zoning change was the only way that we can get this problem taken care of. I'll be available should you have any questions later.

Mayor Leffingwell: Thank you. We'll go through the folks signed up against. Jean bluemeyer. You have three minutes.

Mayor, councilmembers, my name is gene. I've been living there since 1963. and guerrero, a mom and pop construction business. When -- and now it's a big business. They had had one employee and they went to work in the morning and got home that evening and that was it. There was no noise or anything like that. Now it's cars in and out all day long. They have I don't know how many employees, but they have a bunch. 00 in the morning and -- anyway, we're not trying to run them out of business. All we're trying to do is they have other business they had before the rezoning change, or it got the notice. They had three or four other businesses, auto repair shop, tax office and all that stuff there. And all that stuff adds to traffic, noise, and so we were just -- we're not trying to run them out of business. We just wanted to reduce the other businesses and all the rent property. I appreciate your time and I'll answer any questions if you need.

Spelman: Mayor, I have a question. Let me be sure that i understand your position. If something happened, and I'm not sure what instrument the city council and staff could use to cause this to happen, but if something were happening which would cause this business to continue on as it has, not to add additional businesses, not to go back into the auto repair business, not go back into the texas business or anything else, but continuing with the construction business as they cleam it has since before annexation in 1975, that would be okay with you?

Yes. , neighborhood office --

Spelman: I don't know what the instrument would be, but if there were an instrument which would cause them to continue in their business as it has been, but not to be able to add additional businesses, you would be okay with that? Thank you.

Mayor Leffingwell: Next speaker is mary saucedo. And donating time is matt McKAY. IS matt McKay here? There he is. Okay. You have up to six minutes.

Okay. Good afternoon. My name is mary saucedo. I'm a little nervous, but I'm upset also with what's going on in our neighborhood. Some of the things that were said here today I would like to address. And I know I've met with many of you or your aides and shown y'all evidence of what really is going on in our neighborhood. We do have additional signatures on our petition so that is going to go up. I have not had time to turn that in. We're very disappointed with zap and we hope that we're listened to better here today than we were that night. And just really that business has outgrown our neighborhood. There's traffic -- owe as i have shown many of you, there's traffic in and out all day, tractor-trailers, 18-wheelers, roll off dumpster. And the reason that there hasn't been any complaints prior is because we were always told that they were grandfathered in. That's the reason for that. Now, we don't want to put them out of business, but the business has just -- it's just not compatible with our neighborhood anymore t started out as a small business and now it's just grown. According to his website he's hired people within the

last -- from february to april he's had new employees. And this doesn't include his laborers, contractors, delivery people, what have you, whatever goes along with construction. The tenants have been a big problem. The apartment that overlooks the adjacent properties, which is one of my properties, police have been out there several times. Like he said, they're low income, his employees, and you know, they get up there and just start getting rowdy rowdy, just to be honest. So I'm hoping that y'all listen to the neighborhood. And here's our petition. Sorry I don't have copies for everyone, but I need to turn this in to wendy first, I guess. So if you have any questions, I'd be happy to answer them.

Mayor Leffingwell: Councilmember spelman.

Spelman: Miss saucedo, let me put the same question to you I put to mr. bluemeyer a minute ago. If there were some instrument that the city and staff could devise that would allow the business to continue on as it has, not to layer on any additional businesses, but just to continue the way it has, would you be okay with that?

Well, the construction business alone generates a lot of traffic, as I've shown you on the video. We counted one day like 10 trips within a minute of trucks going in and out. So the attorney at one point had like 700 clients, one code enforcement went in, however, the evidence that i have doesn't even include any of that. That traffic is from the construction. The deliveries and --

Spelman: So if somehow there was an opportunity to put a valid petition on continuing with this current use, regardless of what the instrument was, you would still sign that va petition. You want this current use to stop?

I do.

Spelman: Thank you, ma'am.

Mayor Leffingwell: Councilmember morrison.

Morrison: I'm sorry, just one more question. My takeaway from when we were talking and tell me if this is right, is that there was a time several years ago when the intensity of the use was not as great and so it was not as incompatible at that time. Am I remembering that right? Has it gotten worse over time and for awhile it was acceptable?

Well, not acceptable. It's just -- like I said, we were told that they were grandfathered in. We did complain. We did want to know, hey, what's going on here. So that was our belief. That's what we were led to believe.

Morrison: Thank you.

Mayor Leffingwell: That's everyone we have signed up to speak. Rebuttal? From mr. erion? Three minutes.

I'd like to address mr. blewmeyer's comment. There was a period of time beginning in 2008 after the downturn in the economy and the general construction business where the guerreros were trying desperately to keep everything together and not to lay off any employees.

Mayor Leffingwell: erion, could I ask you to defer just a minute? We have one speaker that i failed to call up? Hector saucedo. We'll start your time over.

My name is hector saucedo. I'm here to backup what bluemeyer said and my wife. But pretty much I

don't want to argue with what was said, but I do have a question. Mayor pro tem, you said you had a meeting with the applicant. And you said you wanted to keep it the way it is now, kind of low. Now, my problem is the problem with the mu, the multiple use. That is one of the categories that's in there. That's what we're afraid of is that multiple use, what does that mean? Does that mean --

Mayor Leffingwell: Mixed use, it means residential and commercial. It doesn't mean multiple use.

So does that mean it -- it can go back to, say -- we don't want to be --

Mayor Leffingwell: It could be all residential, all commercial or a mix of the two. Mayor pro tem wants to respond.

Martinez: I think, mayor, we can get this guernsey will come up and explain. Isn't there a conditional guernsey, on this request? And so under mu and under the zoning category, it would only allow for specific uses.

That's right. The conditional overlay that was approved by the zoning and platting commission is to allow construction sales and service, administrative business office and the existing residences and limited to the existing building coverage.

Martinez: So nothing else can happen other than what's there right now because this thing called a co, conditional overlay, its restrictive. It doesn't allow him to do mixed use.

So what's just there right now. Rolloff dumpsters coming in, that's allowable?

Mayor Leffingwell: Whatever is there now.

Martinez: That's right. What is existing on the site now would be allowable under this conditional overlay.

Mayor Leffingwell: I've paused your time during that interlude. You have two minutes left if you need it.

Well, I'm trying to think if I have any other questions. That's the main concern that we had was that mu. We wanted -- we were talking, but we did meet with them and we were tossing around the idea of and neighborhood office, but they were saying they couldn't operate under and n.o. office. That's what we were trying to get to. And we did meet with them, but we tossed back and forth the tenants' issue and all that kind of stuff. You've got to realize that the -- a lot of the residents are pretty set in their ways. They don't want to come up and speak. They just kind of rely on some of us to do the talking. That is the main thing is we weren't sure what the mu was and we want to make sure -- if he says he's going to comply and keep everything down to a minimum. We'll be out there policing them. That's not the quality of life that we want. If it comes down to that, hopefully he's a man of his word and keeps it down. Thank you very much for your time. Any questions?

Mayor Leffingwell: Councilmembers? Thank you. All right. Now we'll go to rebuttal from mr. erion.

Thank you, mayor. As I was saying a minute ago, in 2008 durk the economic downturn, the construction business was getting pretty thin. The family made some decisions to try and generate some additional income. That turned out to be not very good decisions. One was to lease a portion of their space to a cpa for a little extra income. He turned out to be a consumer tax attorney and there were people coming in and out of there, and there were complaints from the neighbors. They asked the cpa to leave. They had for a very short period of time an ootd mechanic that they leased a portion of one of their storage buildings and the service yard. And the neighbors were uncomfortable with and there were a couple of complaints. I have since counseled them that neither use were nonconforming and they couldn't be

done in a residential zone. And they're fine with that and they don't intend to do that again. Regarding the triplex, there is absolutely no intent to expand the density on that or expand the footprint. It will just stay a three-plex. And there was one tenant that they had a year or so ago that was not a good tenant. And caused some disturbance in the neighborhood. And that person was asked to leave. Since then I don't think there have been any concerns with any of the tenants of the triplex. So once again, we -- I think those concerns raised by blue threep meyer and mr. saucedo was legitimate. I think they've been addressed. I think the guerreros are committed to being a good neighbor as they have been throughout the course of the last 48 years. And we would ask that you approve this zoning request. Thank you.

Mayor Leffingwell: Mayor pro tem.

Martinez: Thanks. I don't have any questions, terry. I appreciate it. I wanted to -- first of all, I appreciate the comments and the concerns from the neighbors. I want to give you my word as well that if there are concerns and issues that arise moving forward that i want to be a part of working out how we resolve it and how we move past it if this item does pass tonight. I think the commitments from guerrero and his family are true and meaningful, but I also want to assure you with my commitment that i will continue to monitor this with you and work with you on issues that may come up if this council happens to pass this item. So with that, mayor, I am going to move approval of the zoning and platting commission's recommendation to grant cs-mu-co.

Mayor Leffingwell: So mayor pro tem moves to close the public hearing and approve -- I believe it's only ready for first read willing. -- First reading.

Martinez: On first reading.

That's correct, mayor and council. I want to point out if we do the mu as suggested, there may be some uses that law department may direct us to put in because of fair housing act issues. So I'll just point that out as well.

Martinez: Can we just make sure that the neighbors stay informed of any changes that may come?

That's correct. We can make them aware of that.

Mayor Leffingwell: Of those additional directed items would be residential only.

That's correct.

Mayor Leffingwell: All right. Motion by the mayor pro tem to close the public hearing and approve item 93 to the zoning and platting commission recommendation on first reading only. Is there a second? Seconded by councilmember shade. Councilmember durks want to speak to this?

Shade: I wanted to ask the owner a question, if he's here. There you go. Thank you. I mean, hearing the neighbors talk and understanding the complicated alphabet soup that is this whole zoning mix that we're dealing with, I guess what strikes me as one of the biggest issues that comes up is the industrial dumpsters. It's about being a good neighbor. So whatever zoning and restriction gets put, is there some way that you can agree to deal with that problem and that might satisfy the neighbors in a way that hasn't occurred yet?

Yes, there is. I also agree that that would make it quieter in our neighborhood and certainly less traffic, and we will gladly take care of of that and not have the dumpster.

Shade: Is that something that we would do through some sort of restrictive covenant, through -- is there a way that we can solidify that? I take you for your word, but -- > not sure of the process of making that

happen. Perhaps terry could address that.

Mayor Leffingwell: Mr. guernsey?

We can work with law department and see if we can craft some public restrictive covenant that might limit the size of i guess a trash receptacle that would be used on the property. And that might actually get to address the issue.

Shade: I think that would be great. That makes me more interested in supporting.

Mayor Leffingwell: This is first reading only, so there will be opportunities to explore that before it comes back. [Inaudible - no mic].

We can bring it back by THE 23rd, THE DRAFT Ordinance with some form of covenant that would speak to the limitation on the trash receptacle.

Mayor Leffingwell: And there is a valid petition on this motion, but this is first reading only, so it only requires four votes.

That's correct.

Mayor Leffingwell: Did you have something else? Councilmember riley.

Riley: I have another question for mr. guerrero. saucedo raised some concerns. She mentioned the dumpsters, but she mentioned rolloff dumpsters and the 18-wheelers, the large trucks that would bring the dumpsters and would lower the dumpsters into place. Can you give us a sense of the big tractor trailers, the 18-wheelers. How dowfn do vehicles like that come to your site? Has that been increasing? And how often do you expect to see vehicles like that in the future?

There might be one tractor-trailer in a year that actually comes. And that's usually an error where they should have come to a job site. But there's some jesse stick error on -- logistic error on their part. Roltoff dumpster that, does hop. There used to be four on that site and we used that for recycling and we took it down to one out of respect for the neighborhood. And so we can still get rid of that last one if that's appreciated and needed.

Riley: Yeah. That's where I was going with that. Have you given thought to what you could agree to if we're going to work on something like a restrictive covenant? Have you got -- could you -- have you given any thought to the terms? You mentioned that you could live with the restriction on the dumpsters and I think i hear you saying that you would agree to restrict 18-wheelers from coming to the site?

Exactly that, yes. And rolloff dumpsters.

Riley: Okay. And that could be addressed in the restrictive covenant?

Yes.

Riley: Thanks.

Thank you.

Mayor Leffingwell: Motion on the table. Councilmember spelman.

Spelman: I have a question or two for mr. guernsey. Greg, I want to be sure i understand the consequences of what we're talking about doing here. If we were to pass the motion on the table, then this site would be -- three readings, sometime in the future, this site would be zoned commercial services, mixed use with a conditional overlay. What could -- they could continue on as they have been with the construction business on the site.

Correct.

Spelman: What else could they do with this site under that zoning?

Under the uses approve by the commission, they could also have an administrative business office. If there was like an insurance agent or real estate agent, those activities could still occur. I believe there are three residences that are on the property. Those would be able to remain and continue on the property, so the conditional overlay would limit probably to three dwelling units. Construction sales and service, aside from the building, it could be a plumbing contractor, an electrical contractor. I mean, there are various contractors that fall under that classification. It doesn't have to be this particular family and that particular trade to fall under that classification, just like under the office it doesn't have to be a particular type of office along any of those administrative business offices. Those would still be qualified. For a professional office, for an attorney or engineer. But those other type offices would be permitted.

Spelman: And if guerrero and his family decided to sell the business or move the business elsewhere and sell the property, somebody else could come in with a plumbing contractor or (indiscernible) or something like that?

That's right. So long as they operate in the same manner if there's a public restrictive covenant that limited to -- there would be no rolloff dumpsters and I guess we would look at the language we used to limit the deliveries of 18-wheeler supplies, if those were incorporated into part of the motion. Those would carry on to the next person that owned the property because it runs with the land, not the owner.

Spelman: As i understand it, this case would not be before us, the applicants would not have applied for zoning change -- my apologies. They would not have applied for zoning change -- had this been found to be a legal nonconforming use, is that correct?

Correct.

Spelman: So if you had evidence that they were in business before annexation in 1975, this would be -- that's that kind of use.

And they were in business before 1975. I think the issue is that 1975 upon annexation the garage and storage buildings in the rear did not exist. Some of the material that's outside, there's more material outside probably today on the ground in the backyard than there was at that time. The family still lived in the house and there was a portion of the house that was used for the construction sales and service business, but as time passed, the records that we have at the city indicate there were permits in '76, in '86, I think '91 and 2002 that imply that there were residential permits pulled on the property. So it's just expanded through time. We don't dispute that there was a business in the house, there may be a couple of trucks in the backyard, but the larger storage building in the back, the garage tiep structure were permitted as a residence and more of the house probably back upon annexation was house, then business.

Spelman: That's interesting. So there's no dispute that there was a construction business operating prior to annexation. But because, what, most of the house, most of the property was being used as a residence?

Under a nonconforming regulations, this type of commercial business in a single-family residential district, you're not allowed to span more floor area within the residence, or the building in this case. So when the family moved out and it became a business throughout the -- the business took over the remainder of the house, that would not be permitted under regulation. The uses that are outside were pretty much be limited to whatever they were when they were annexed. And that has expanded. And the storage building and the garage structure in those cases, the best of our records show that they were permitted as a residence and so the conversion to a nonresidential use is an issue.

Spelman: Go ahead.

We don't dispute that there was a business on the property, it's just that there's been spans through time when would not be allowed under nonconforming use right now.

Spelman: So if I were a legal nonconforming use i could continue with my previous use even though it no longer conforms, it would be legal, but I couldn't expand it.

That's correct, under the rules that are out there right now.

Spelman: Help me solve my problem. I would like these guys to continue at their current rate, perhaps with changes to dumpsters and rollofs and so on, but I would like not to have that property carry a cs zone, which could transfer with a transfer of the property. I would like the next owner of this property not to be able to do this. Is there a way of having the guerrero family continue with their construction program, but when they sell that property for construction and services to cease and for it to revert to a residence?

We don't have a mechanism that the property would change without an action of a city council. We've had people offer to the city -- although it's not necessarily binding, but saying that we do not object to a rezoning of our property in the future; however, nothing stops the succeeding property owner from going forward or the family I guess not holding that agreement. We've actually had that happen once in the past that I'm aware of. But again, ultimately it's up to the city council to make that decision to rezone the property to a different classification if this use were to cease in the future.

Spelman: Is there a less restrictive zone that would allow them to continue with the construction services?

I believe they could do it under a wlo zone. It may make some of the structures non-complying because they might not comply with the setback requirement. It also, I believe, would limit them I think to 10,000 square foot for construction sales and service use. And it may also be conditional. Pardon? Oh. However, it would make the residential uses on the property nonconforming because wlo, it's not one of our mixed use categories. So it would make those residences that are already on the property nonconforming with respect to the wlo district, although if there are three units on the property now, it's already zoned sf 2, they would be nonconforming today, soig it would not change their status in that regard.

Spelman: So that trick solution is probably -- it does not meet all of our needs.

Right. I think the motion that's made for the cs-mu-co actually probably addresses the majority of the uses and probably is easier to comply with existing buildings as far as set backs are concerned. As it exists.

Mayor Leffingwell: Councilmember morrison.

Morrison: Thank you. I guess I do have one question for you, greg. And that is I see that there's a

restrictive covenant in backup between the neighborhood and not signed, of course, between the neighborhood and the property owner. And I don't understand it because -- let's see. Are you familiar with that?

This might be better if erion or billy might come up and speak to it. There's agreements regarding I guess in securing fencing, a screening fence along the west side of the property in a northerly direction to the frontline of the triplex be installed and maintained. That screening fences also be installed and maintained between the triplex and the construction sales and service use. And so it speaks to screening, additional landscaping, and that the --

Morrison: If I could ask you, there's really one point in there that I wanted to ask about. It's under number 4. It says upon termination of the current construction sales and service use for a period in excess of three months or upon transfer of the title of the property, blah, blah, the grantor agrees that the legal nonconforming use as a construction sales and service use shall cease to operate and all future uses shall be limited to those authorized by the zoning of the property, but construction sales and -- first of all, it wouldn't be legal nonconforming, and construction sales and service is authorized by the zoning. I don't understand what that point was for.

Well, this is a private agreement between the parties, but I think the general intent was that if their business cease that they -- if it was not this type of business it would not occur again.

Morrison: Let me ask him if that's the case. That's what I thought it wanted to say, but it doesn't seem to be saying that.

There are negotiations with the neighborhood. We were seeking their support to support a decision. We were hoping that the record was going to make that we were legal nonconforming. So it was in that context. But we will withdraw the cs zoning application if we can all agree this is a legal nonconforming use. [One moment, please, for change in captioners]

Morrison: The bottom line is the zoning of the property, when it's sold, if it's sold, then -- then construction sales and services from somebody else who might not be interested in being a compatible neighbor can move in. The other thing is with -- excuse me -- with business and administrative office allowable, I guess I don't know why the accountant couldn't move back in if the property got sold. So that's -- that's the real problem I have that there aren't constraints on the property. Even if we can come to some agreement and commitment from the current owner.

I think the -- the tax service could come back unless we put a private restrictive covenant on it, which we're willing to do. And we would -- we would agree to the rollback provision as a private restrictive covenant as well.

And then the other thing that occurred to me as a possibility in terms of trying to -- to put some constraints on it, would be making certain uses conditional uses and even -- even the -- the office use a conditional use potentially if there's a concern about number of trips that it generates. Or perhaps limiting the number of trips that could be generated by -- at any given time. I'm just trying to look for ways to achieve what I think councilmember spelman said quite well, that is how do we keep these folks in business, make it compatible, but we can't control what happens after they sell it. And I understand they don't plan to sell it, but the fact of the matter is we have to understand that it might be.

The answer to your concerns, we would agree to a private restrictive covenant, prohibiting the -- the automotive repair, prohibiting.

Morrison: Construction.

Administrative office uses, other than the company's use. I mean, this is their sales and service center. We would agree to the rollback. We would agree to -- to prohibit the -- the dumpsters and the wheelers.

Morrison: Okay. I guess for me on this case, I'm having a really hard time with it. I know that it's just first reading. On third reading it needs to have six votes and I will go ahead and vote for it right now, but I am very interested in -- in seeing what can be done to put those kind of constraints in place to address the neighbor's concerns and theoretically they could be so well addressed that the valid petition could go away. That would be ideal.

Mayor Leffingwell: Well, I have a couple of quick questions for Greg. I intend to support this motion, also. I'm a little bit concerned about all of the covenants. My understanding was that the -- some of them were going to be public restrictive covenants and a lot of this other stuff, we really can't get involved in negotiating. We can encourage parties, but we can't be involved in the direct negotiation of a private restrictive covenant.

Whatever private agreements, but the CO would already prohibit the auto sales or auto repair.

Mayor Leffingwell: Exactly. All of those uses are already prohibited.

The covenant as I understand, we're talking about the larger dumpster type of facilities that roll off of dumpsters and limiting the vehicle type of traffic, 18 wheeler type --

Mayor Leffingwell: Public, right?

That would be public. I understood they might be willing to do some private restrictive covenant prohibiting the tax consultants and auto uses.

Mayor Leffingwell: Again, that's kind of -- that's already prohibited by the CO.

They could certainly also offer in a private covenant that the use would cease if their business were sold.

Mayor Leffingwell: As you said, they can offer that. But there's no assurance that would ever happen.

Right. If they --

good faith.

If Terry or Billy draft something, we can put that in the backup when this comes back to you for consideration for second reading so that you would have the benefit of looking at what the public covenant might be. And then also the private one that they would offer to the makers.

Mayor Leffingwell: Just to be clear again, councilmember, the uses that are there now are the only uses that can be on the property according to the zoning.

If --

except for the housing issue.

Mayor Leffingwell: About there couldn't be an accounting [indiscernible] coming back, according to the zoning.

Accountant probably would be considered an administrative business office. The auto business is prohibited but if they entered into a private covenant to where there's specific types of administrative offices which are prohibited, bill and terry could bring that back in a private covenant so even though there might be a public co and an ordinance that would allow administrative business office, they would agree they would not have a particular type of administrative business office and that would be prohibited.

Mayor Leffingwell: Basically you have a motion on the table for approval for first reading only, with -- with some suggestion and additional direction for restrictive covenants. Come back for second and third readings.

ON THE 23rd.

Mayor Leffingwell: Further comment? All in favor say aye? Opposed no. Passes on a vote of 7-0. We stand in recess for live music and proclamations.

Good evening, everyone. It is that time of the week again, time for live music and proclamations here at city hall. I'm honored to be up here and introduce to you a local austin musician, david ramirez. Uneasy with being in one place for too long, david tells the stories of a wandering man and his brand of modern americana that folks his brand [indiscernible] from teen years struggles to making a name of himself in nashville. He has spanned multiple ep and a full length album american soul. He played 150 shows in 2010 on numerous towers, he calls austin, texas his home, though, in the place where he wrote and recorded his latest release, strange town, ep. Strange town. The songs on this ep tell things as he sees them, honest, unfiltered and true. With over 10 years of writing and performance, david ramirez is here to perform for us today, so let's welcome david. [Applause]

thank you so much. [🎵 Music playing 🎵] [🎵 singing 🎵]

let's try that.

You can find me at davidramirez music.com. I guess the next big austin show he is june 17th at the parish. We did that back in march and i'll have the band with me, it will be a really nice night. And yeah you can buy the music from there on the site or you can get it on i tunes, you know, the whole world actually you can buy it anywhere in the word.

Martinez: Great. I have proclamation that i want to present with you if you hang out with me for just a second. It reads be known that whereas the stay with us, texas is blessed with many creative musicians whose talent extends to virtually every musical genre. Our music scene thrives because austin audiences support music performed by legends, local favorites and newcomers alike, whereas we are pleased to showcase and shout our local artists, i lee level, do hereby PROCLAIM MAY 26th, 2011 AS David ramirez day here in austin, congratulations, david.

Thank you. [Applause] okay, it's time to honor or auditors, particularly our internal auditors, of course there's nobody more deserving than these folks. Seriously, this is the internal auditors celebrating their 32nd birthday, anniversary, chartered in 1979. And I believe that a large number of those auditors happened to work for the city of austin, although we do have representatives of the state here and you're with [indiscernible] three representatives from the state and two from the city. So it's my pleasure to read the following proclamation. Be it known that whereas we're pleased to recognize the austin chapter of the institute of auditors that celebrates it's 32nd anniversary chartered in 1979 by 13 auditors, the organization now has 753 members, including 35 city employees and whereas the annual celebration of internal audit week focuses attention on the invaluable assistance of internal auditors provide organizations in evaluating risks and opportunities and in ensuring efficiency and effectiveness and whereas we are especially pleased to recognize the commitment of our local auditors to upholding the standards of their professional organization and to congratulate those who serve in leadership

positions with the international association or with the austin chapter. There therefore I lee leffingwell, mayor of the city of austin, texas, do hereby proclaim may 22nd THROUGH THE 28th 2011 AS Internal audit week in austin, texas. Congratulations, guys. [Applause]

hello, I'm robert, president of the austin chapter of internal auditors, as the mayor mentioned, we've been a chapter for 35 years, but the institute itself has been around for 70 years, we always try to celebrate the fact that it's been around during may. But I do want to thank the mayor and the rest of the council for helping us proclaim this internal auditor's week. They are very supportive of -- especially the city auditor's office where i work. And we try to do our best. So there's 35 city employees and we've got auditors in almost every department on the larger departments. So we appreciate the proclamation. [Applause]

Mayor Leffingwell: In recognition of the national weather service, the program for storm ready, to help communities to prepare for these kinds of situations, earlier this week, we commemorated, not celebrated, we commemorated the 30th anniversary of the memorial day floods here in austin, texas. Stood out on a spot on shoal creek and north austin around 39th street, where -- where approximately 19 homes were lost, 13 people lost their lives, when we had that flood on MAY 24th, 1981. We gotten inches of rainfall in two and a half hours, between 9:30 and midnight. We were totally unprepared. We didn't have good forecasting. We didn't have good equipment. We didn't have good coordination between various intergovernmental agencies and now we do. And a lot of it is a result of -- of, you know, a lot of times you have to learn lessons the hard way. We learned that lesson. So we learned to coordinate with the national weather service, we need to learn how to coordinate with other agencies in the city and region that provide first responders to all kinds of emergency situations. And out of that, that -- the c tech was an outgrowth of that where we now have a center in northeast austin to manage emergencies of all kind in a highly professional technical way. So it's I think especially appropriate time to issue this proclamation, which be it known that whereas each year brings the potential for flooding, tornadoes, hail storms, straight line winds, wildflower -- wildfire and other severe emergencies to strike our city and whereas the national weather service designed the storm ready program to help communities implement procedures to reduce the potential for disastrous weather-related consequences and whereas being a storm ready community improves communication, severe weather preparedness and strengthens response plans and whereas the city has met the national weather service requirements to be recognized as a storm ready city, so austin residents have the best possible chance of being warned before a weather disaster strikes. Now, therefore, I lee leffingwell, mayor of the city of austin, texas do hereby proclaim the years 2011, 2014 as austin as a storm ready city years in austin, texas. So congratulations, guys. [Applause] do we have a spokesman?

Thank you, very much. My name is paul [indiscernible] with the national weather service office. It's just a testament to what the city of austin has done. Very important that we know that there's a huge piece of the puzzle out there. When trying to save life and property during a weather event. The national weather service forecasts of course are one of them. You about the other larger pieces are the people that you see behind us and the city officials in the office of emergency management homeland security like here in austin to bring that warning, to tell people about that warning. That's what the process of storm ready is, having a working eoc, emergency operation center, getting those warnings out to the public. Having the equipment, the rain gauges and knowing what roads are going to be flooded and closing those in time. It's a big process, everybody has a small piece to it and so it's a testament to the city of austin to what they have gone to -- become a storm ready city. Congratulations to them.

Thanks, the city of austin's office of homeland security and emergency management has worked hard over the years to achieve and maintain levels of readiness for the storm ready designation. We are proud to accept this designation on behalf of the city of austin from the national weather service. No community is storm-proof because disasters occur at any time without notice. However, today after many improvements in flood control, preparedness and training of our first responders, and our flood early warning system, austin is storm ready. [Applause] austin has a very well established safety program. Here at the city of austin we believe in safety, we believe not only for -- for the obvious ropes, but also because it pays real dividends, preventing accidents, saves money for the city of austin. That is

an ancillary benefit to the primary pickups of protecting the health and safety of our employees, but it's very important. So we have a proclamation tonight in recognition of employee safety which reads as follows. Be it known that whereas the city of austin recognizes the importance of the health and safety of its employees and its duty to provide a safe and healthful work environment, whereas the city also recognizes the city of austin employees safety association and the city occupational safety and health network as leading forces in employee safety advocacy, and whereas the city of austin employees safety association is coordinating and promoting city-wide activities related to the national safety council's annual observance of national safety month, now therefore I lee leffingwell, mayor of the city of austin, texas, do hereby proclaim june 2011 as employee safety month in austin, texas. [Applause]

thank you guys.

Good evening, I'm shelley buchman, the president of the employee safety association and employee of the austin public library. And I have been very blessed with being the president of this association going on four years now. This may was our fifth anniversary as an association. We are extremely active. We provide monthly safety trainings for all of the city employees. As well as an annual safety conference which this year we were very fortunate that ott were willing to allow us to use a convention center or palmer events center, i should clarify, for free for us to host our conference. So we're really hoping for high attendance this year. Is year the national safety month is promoting summertime safety as well as preventing overexertion, teen driving safety and preventing slips, trips and falls. I can bet that most of you in this room have a cell phone and you have seen the [indiscernible] commercials on tv from kxan, we're very fortunate this year that remembering alex brown foundation is coming to be on keynote speaker and talk about the importance of not texting while driving. Because it is the equivalent of driving while intoxicated. So -- so if anything else, please keep that in mind when you go home today. The purpose of our association is to improve the working environment over all city of austin employees so we're promoting best business practices, consistent with policies, making sure that we have the safest workplace possible, promoting quality safety communications among our employees and encouraging professional excellence within the city. So we do appreciate this proclamation and all the support that we do receive from city council and the city manager. Thank you. [Applause]

dr. paul hinchey. Not here? You want to wait and do it later? Well, we'll just read it. The guest of honor is not here, we're going to give him a operation anyway, dr. paul hinchey. Who is I believe the director of e.m.s. Is that correct, gale? Medical director, medical director of e.m.s. Which is a very tough job. And he has recently taken on an additional task that relates to what we're going to issue this proclamation for here tonight. Which has to do with spreading the gospel, spreading the word, on the new cpr techniques. They are so simple and easy to do, that -- that even i could learn how to do it in about 30 minutes. So my office is actually sponsoring this effort. Going out and trying to get a few folks trained in this cpr method, they go out and train everybody they know. 10 Or 12 people. Basically it exists of progressions only, you have probably heard of this. Just lay the patient on their back and just start pumping, 100 times a minute. That's a new technique. It's not invasive, it gets rid of a lot of the fears people have had about administering cpr in the past, the mouth to mouth situation and also what kind of trouble they are going to get into doing this. We think that it will be a very effective and a very important addition to our efforts to save lives here in austin and central texas. And as a matter of fact paul hinchey was here at the city hall earlier this week to conduct the first class that we had on this. So the process is underway. be it known that whereas take heart austin is a 9th annual celebration for cardiac arrest survivors, families and rescuers, whereas victims of cardiac arrest in our area are blessed to have access to life saving care 24/7 thanks to the more than 2,000 dedicated members of the austin travis county emergency medical services program, including paramedics, communications medics, firefighters and law enforcement personnel and whereas we are pleased to recognize the austin travis system for its effort to improve survival and recovery from sudden cardiac arrest through professional and public education. Now there ever I lee leffingwell, mayor of the city of austin, do hereby PROCLAIM MAY 30th, THROUGH JUNE 5th, 2011 AS TAKE Heart austin week in austin, texas. So congratulations to dr. paul hinchey. And in abstentia, we will get him his proclamation as soon as we can. [Applause]

I would like to add beverly -- to ask beverly silas to come down. I just happened to notice that sitting

next to beverly silas was jake pickle's little sister, is that right? Do you want to stand up? No? [Applause] later we are giving an award to j.j. pickle elementary. I don't think that you were here, I think that you were keeping beverly company. Is that right? Beverly silas is a person that my grandmother would call the real deal. When I say the real deal that encompasses a lot. It already assumes that she is spiritual and hard working and committed. But it also means that she's [indiscernible] she will look you in the eye and tell you the truth every day [indiscernible] when it comes to a challenge, she does not blink. So I am very pleased to present her with a certificate of congratulations for receiving the woman of the year award in transportation and now I'll read the proclamation. This certificate is presented to beverly silas in recognition of her having been selected as woman of the year. Does that sound like the real deal? The women's transportation seminar, the women's transportation seminar is an international organization dedicated to the professional advancement of women in transportation. silas was selected for this honor based on her outstanding achievements, leadership, and contributions to the field of transportation. She has served as the travis county representative on the capital metro board since january of 2010. This certificate is issued with our congratulations on this well deserved recognition on the 26th day of may in the year 2011. The city council of austin, texas and mayor lee leffingwell. There you go. [Applause]

thank you so much, councilmember cole. Immigrately honored and deeply humbled by this recognition. Thank you. sinclair black. black was around even before I was on council, but ever since I have been on council, wherever I have had a question, he always knew the answer. And that is not a -- not a talent that comes to many people. And because of that, he has been recognized in the american institute of architects. So before I read the proclamation, I want to say thank you for all you have done for the city of austin. And also thank you for your friendship over the years. The proclamation is certificate of congratulations. The city of austin joins the college of fellows of the american institute of architects in recognizing sinclair black for his many contributions to our city and to the profession of architecture. black was recently awarded the faia community service award. He has been a member of the college of fellows since 1984. Is a partner in the practice of black and maruney, teaches architecture at the university of texas and was a founding member of the central texas chapter of the c for new urbanism. He has won more than 30 awards for design projects and has been recognized by such organizations as the downtown austin alliance, the heritage society of austin, the texas downtown association, and envision central texas. We are pleased to recognize his work that has contributed to austin's green and vibrant urban development. This certificate is issued with our congratulations on this well deserved faia award, the 26th day of may in the year 2011. The city council of austin, texas, and mayor lee leffingwell. [Applause]

thank you, sheryl. I will be around. And I will have opinions. Keep calling, please. I noticed here later on number 9 that school of architecture and the [indiscernible] are being appreciated. And chris, I guess is going to give the award. But I would like to suggest that you pay more attention to what [indiscernible] students in fact will do. On a given day there are about 600 of them, busy trying to figure out how [indiscernible] I should start by recognizing two of the most important [indiscernible] over the years [indiscernible], who was the dean for -- for 16 years, when the school became very important [indiscernible] and riley who is -- whose memorial service [indiscernible] [microphone] [applause]

we're going to take a picture, hold on we're going to take a picture with a few people that think a lot of you. Randi shade and marisa and chris riley and craig anderson. All of y'all come on over and let's take a picture. We talked a lot about governmental cooperation and collaboration. Especially between the city and the school district. And the best example of that in austin, texas is j.j. Pickle. Elementary. And we are giving a proclamation today to the pickle elementary school and the saint john community center on the occasion of their 10th anniversary and we are presenting that to the assistant principal, noalie watson. Is that right?

Right.

All right. I'm going to read the proclamation. Be it known that whereas we are pleased to recognize pickle elementary school and the saint john community center on the occasion of the 10th anniversary

and whereas this campus is unique and that it is an elementary school, a city recreation center, a health center, and a public library, all in one. And whereas the campus also has been recognized for being a green building, that was constructed with many energy saving features. Now therefore I lee leffingwell, mayor of the city of austin, do hereby join the staff, students at saint john's community in celebrating 10 years of service and success and do hereby proclaim the year pickle saint john community center 10th anniversary! [Applause]

good afternoon, we really appreciate this proclamation. I am standing in -- in lieu of my principal, who is in charge of our fifth grade graduation at this time as we speak. We are excited about our fifth graders going to middle school. And they are excited as well. We are hard working campus. We've continued to work hard. Our -- for the first time in our last school year our campus made recognized status and that was based on our standardized scores. We are continuing to work hard as we speak we realize -- we just realized that our preliminary scores looks like that we're going to maintain that recognized status, so we continue to work hard and we are very pleased about this proclamation and please feel free to come by and visit our campus at any time. Thank you. [Applause]

hey there, I'm councilmember chris riley, it's my great pleasure to able to present the next few proclamations. Starting with ones recognizing bicycle month. May -- may is bike month here and around the country. At the -- it's a very exciting time. Bike month is not just about celebrating the bicycle and all of the great things that bicyclists currently enjoy on the streets. It actually also about getting more folks out on the streets. Reaching out to people who haven't necessarily been biking before and getting them excited about biking and encouraging them to get out there on the streets and -- and enjoying safe biking and in the process making biking safer for everyone. One thing that we have done this year to promote that is a bike poster contest. And one very exciting aspect of that has been getting young people involved in that contest. This year we had a number of people competing, a number of young folks. And it's my great pleasure to be able to present awards for -- in that contest for folks or students who did from the fourth grade all the way through the eighth grade who did bike posters celebrating cycling. There was a competition and we have some winners here before that it's my great pleasure to be able to recognize. I'm going to start with the winner of the fourth grade winner of the contest, that's natalie sanchez. And I have a proclamation to present here. And I'm going to read it. It's certificate of congratulations. We are pleased to congratulate the fourth grade winner of the austin safe routes to school 2011 bike safety poster contest, from andrews elementary school. Magdalie created a poster that highlighted the theme of austin bike month. Be bright, be seen, be flashy. Her work helps to accomplish the austin safe routes to school of increasing the number of safety of kids biking to school. We are pleased that she's taking an active role in promoting bike safety in our community. The certificate is presented in recognition thereof this 26th day of may in the year 2011. Thank you. [Applause] then the fifth grade winner, was not able to be here. We have a certificate for brittany from zavalas elementary school who is a fifth grade winner of the contest. Which we'll get to her later. Because she couldn't be here tonight. From sixth grade, the winner we have luis munoz. I'm going to present this, he's in the sixth grade at martin middle school. The sixth grade winner of the bicycle safety contest. [Applause] and then the seventh grade winner is maurice kirk, from mount martin middle school. Maurice couldn't be here tonight, either. But he's the -- he's the seventh grade winner. The eighth grade winner is brandon phelps also from martin middle school. What a great job. So thank you all so much for your efforts in this. For joining in -- in the celebration of bicycle month and increasing the -- the education and safety of young people out there on the streets. Thanks so much. For your work. [Applause] I also want to recognize our safe route to school staff and thank them for all of their work and then let them say a word as well.

Just really quickly, my name is christie stiltwell the program coordinator of austin safe routes to school. Our goal is simple, we try to increase the number and safe of the in kids biking to school. We did this in honor of bike MONTH, WHICH WAS MAY 6th. The kids did a great job of highlighting biking safety and getting more kids on bikes. Great job you guys, we're really proud of you. [Applause]

then finally there was actually a wider competition for grownups as well. For everybody. And we had a winner on that one, chris -- chris balmily won the city-wide bike poster contest, I also want to recognize

tom for organizing the bike poster contest for the past two years now. And -- and I want to invite either/or both of you to say a quick word if you would like to. Tom, do you want to say a word about the contest.

The austin bike poster shows what happened. The whole purpose of the bike poster show is to inspire people to get out on their bikes. Not racing or mountain bike riding or whatever, it's just for the pleasure of getting out on your bike and using it for transportation. What we did is put the word out that we were seeking submissions, we got 39 submissions for this contest basically is what it was. And we narrowed it down by popular vote for the top 20 and those were the ones that were entered into the show. And then after those were selected, there was a -- there was another voting period to pick the best overall poster that basically met the criteria that we were after. Which is inspiring people to get out on their bikes. In austin, chris balmily, as you can see by his poster, did -- did just an excellent job. I was so pleased that -- that poster was selected to -- as the winner. There were just a number of wonderful submissions, though, I encourage everybody to go to austin com to see them. But anyway, certainly appreciate chris for putting the effort into it. It's certainly a great poster. I also want to thank the frame corner. You can see the posters live at the frame corner gallery in north central austin. [Applause]

Riley: Thanks so much, tom. Chris, did you want to say a word? Okay. Great job on the poster, really terrific. Also I want to recognize sarah krause.

Riley: I realize i didn't actually read this proclamation yet so I'm going to real quickly read this proclamation. Chris, I didn't read this one. I want to make sure people know the proclamation that we're presenting to you. It's different, certificate of congratulations. Pleased to congratulate chris balmily for his poster having been voted best overall poster in the austin bike show poster 2011. Chris developed a strong message through art work promoting bicycling in the .. Transportation options in our city, presented in recognition thereof, this 26th day of may. [Indiscernible] thanks so much. [Applause] thank you all so much. Next we have another very exciting and fun one that's near and dear to my heart. This -- some of you all may know that I've been involved in helping with an initiative involving the airport boulevard corridor. A corridor that stretches -- we're focusing on stretches from lamar boulevard over to the i-35 and the city is currently diving into a process of figuring out exactly what we can do on that corridor to facilitate a transformation that accommodates some new density, transit oriented mixed use and pedestrian friendly and so on. Very exciting, challenging project that has all kinds of possibilities, it's kind of difficult to wrap your head around exactly what could be there. The cool thing is as sinclair suggested there's a whole army of folks over there at the school of architecture who are ready, willing and able to dive into exactly that sort of problem. That's the kind of creativity that we need to encourage and promote in order to achieve something really significant there. And I'm so excited that -- that with the help of some folks over there that -- at the school of architecture, that's exactly what happened. We got a whole crew there involved working on developing all kinds of cool and exciting designs for -- for potential redevelopment along that boulevard. It was the coolest thing. I was over there while they were doing the final part of it. They had the whole downstairs over at the main building over there at the school of architecture filled with all kinds of maps and students doing presentations, it was very exciting thing to see. Just to see all of that create fifth and thought and -- and talent really going into the -- into this whole problem of what we can do on that corridor. So I want to thank everybody involved and recognize them with this certificate of appreciation which I'll read. The certificate of appreciation for their contributions to the ongoing airport boulevard corridor redevelopment initiative. school of architecture students and faculty are deserving of public act climb and recognition. We're pleased to recognize their engagement and contributions in collaboration with the initiative stakeholder process and airport boulevard advisory group. This certificate is presented with our appreciation this 26th day of may in the year 2011. I'm going to present this to nicole weidemann who i worked with on this effort. Did you want to say a word about it?

First, I would like to thank councilmember chris riley, especially for his generosity with the students talking to them about airport boulevard and the project and its implications and also joining us for the final review, it was wonderful. To I would just like to say it's been a pleasure for the school of architecture at the university of texas at austin. To be able to make a difference to be involved in what

austin might be in the future. So thank you very much. Thank you. [Applause]

Martinez: All right. I get the privilege of doing the last proclamation of this thursday. So I would like to invite mr. george cofer to come up. So last year we started a tradition here in austin, free swim day at barton springs. Arguably barton springs is, you know, the crown jewel of our parks system. And so -- so now that -- now that summer is upon us and it's really, really hot already, we're going to do free swim day at barton springs, but it also happens to be national trail -- is it just national trail day?

Yeah.

National trail day. So we're joining the two and recognizing both event with -- in the same day with one proclamation. George cofer from the hill country conservancy is here with me to receive the proclamation, I will read this, turn it over to you. The proclamation reads be it known that whereas barton springs is an important gathering place for austinites. And bears great historical and cultural significance as an immeasurable community treasure, whereas barton springs also has come to represent the commitment of the people to of of austin to their environment and appreciation of the great gifts of natural beauty which help make our city the special place that it is. Whereas june 4th is national trails day. Whereas I urge all citizens to join me in recognizing and celebrating the social, cultural and environmental significance of barton creek and barton springs, now therefore I lee leffingwell mayor of the city of austin, texas do waive all entrance fees at barton springs pool and do hereby proclaim june 4th, 2011, AS BARTON Springs and national trails day in austin. [Applause] george?

Thank you.

Take a picture.

All right.

Thank you, mayor pro tem. We appreciate the support of the city for national trails DAY JUNE 4th. It's grown into quite an event that will be approximately 400 volunteers working on the barton springs greenbelt saturday, JUNE 4th. The public is welcome. We'll do a work day. Then we will do free lunch and then we'll have free swim day. We appreciate the city's support. [Applause] council will return shortly. Thank you. There being a quorum present, we will go ahead. Folks I know that the item that's next to the cue, you guys have been waiting patiently. We have one agenda item before you with no speakers signed up. We are going to quickly get that out of the way so let's tee up -- agenda item 95 is - - can I help you? So we'll conduct a public hearing and consider an ordinance that amends city code chapter 9-3 relating to the juvenile day and nighttime curfews and continues and readopts city code chapter 9-3. Any expense that wish to address the council on this item? Hearing and seeing none, i will entertain a motion to close the public hearing. Motion by councilmember spelman. Seconded by councilmember riley. Any discussion? All those in favor please say aye. Opposed? Motion carries on a vote of 6-0 with councilmember cole temporarily off the dais.

Mayor pro tem?

Spelman: Mayor, i believe we have an ordinance to consider as well. Mayor, I move approval of the ordinance before us on all three readings.

Councilmember spelman moves to approve the ordinance on item 91 on all three readings -- on item 95 on all three readings, seconded by the mayor pro tem. All in favor say aye.

Aye.

Opposed say no. That passes on a vote of 6-0 with councilmember cole off the dais. Now, council, we will go to item no. 94.

Thank you mayor and council. Greg guernsey, director of planning and development 94 is case c14-91-0015(rca) - champion -- the property located at 5617 rm 2222, a proposed amendment to a restrictive covenant related to a previous zoning case on this property ato allow a left turn access into the site from westbound 2222. The property is owned by champion assets, limited. A 9.2-acre tract. As I mentioned before, this is an amendment to a previous restrictive covenant. The restrictive covenant as it was approved back in 1991 associated with the 1991 zoning case had a provision that there would be no more than one driveway approach from rm 2222 and in more than one from loop 360 or capital of texas highway to the property sufficient to provide a right in and right out vehicle access from the roadways to the property. And in 2009-2010, the texas department of transportation began a major redesign and renovation of the intersection at 2222 and loop 360. The agent for the property owner approached txdot with a new design that incorporate the left turn lane on the westbound turn lane of 2222 prior to the intersection so the vehicles could access the property to the southeast. On txdot, agreed to that left turn lane. However, they withdrew their approval in informing the agent that they would have to amend a restrictive covenant. This restrictive covenant and then prior to the txdot changing their plan and allowing a left turn lane access. The site right now is zoned gr-co, undeveloped to the north the tract is another gr-co track for rail to the south is the planned [indiscernible] development, the courtyard, single family residences, to the east, to the city of austin fire station is actually on the other side of bull creek. There's a very low water crossing that's being also [indiscernible] and to the west is lo and office. The zoning and platting brought this amendment to you. Forwarded this amendment to you without a recommendation. They had a split of 3 and 3. There are many, many people here to speak to you, i think, this evening, but i understand that i think at least the opposition has organized itself and you should have on the dais i [indiscernible] [sound very low] speakers they wish to hear their representative the applicant, representatives are here, graves dougherty [indiscernible] are available, staff is available if you have any questions, george zapalac is also here if you have any transportation questions. Questions for staff now? All right. We'll go to the speakers. And first we have the applicant, michael whellan, donating time peter [indiscernible], peter, so michael, you will have eight minutes, up to eight minutes.

While he's getting that up, michael whellan on behalf of the applicant. I know there's questions about postponing this. I did want you all to know we tried, we did have a conversation last night and there was no lack of agreement -- a lack of agreement on postponing, which is why we're here, but I want you to know we had that conversation. The place to start is data and expert information. Because it is data and expert information that serves as a basis for sound decision making and supports good policy making. We were asked by both txdot and the city of austin to conduct a study to determine whether the left turn in was a safe alternative. In the -- the conclusion was that indeed the left turn was a safety alternative and as you now know from txdot in their statement, it is the preferred alternative to blocking off the intersection for that left turn [indiscernible] our request for a left turn in was derived from an evaluation based on the analysis of trained traffic experts concerning safe entrance into a site. We all share the same concern, a safe way to access the site and to minimize or reduce congestion into the intersection. We're going to quickly go through this powerpoint. You'll see that one thing that's important to note is that there have been significant and meaningful changes to the roadway since the restrictive covenant was entered 20 years ago. The four primary ones the wider roadway, which has improved safer geometry, the elimination of a fast exit off of 360 on to 2222 heading east, creation the hooded left turn bay with the delineator posts and finally the left turn signal [indiscernible] as you just saw -- [indiscernible] there's the site that you just saw, you know, you've got the county line, the fire station and in the corner. As I noted 20 years ago, other than transportation review manager, now assistant director george zapalac who has been involved with this tract for quite some time, wrote a report. In his report he noted exactly what the conditions were and why a restrictive covenant was needed. He wrote there is insufficient space to provide left turn storage for turning vehicles. This is what was requested 20 years ago and it was insufficient space to allow for it. This was the recommendation and we agreed to the recommendation based on the conditions that existed 20 years ago. I would note that restrictive covenants, as anybody in here will tell you, including your legal staff, always have a provision at the end

which indicates that they may be amended by agreement of both parties. And that, of course, is there to protect both parties as and if conditions change over time. The staff recommendation is to allow left turn access into the site. From westbound rm 2222. And that the roadway improvements should be provided in accordance with the assumption in the tia. They looked at two scenarios. The first scenario is assuming the conditions of the restrictive covenant, which is. [Reading graphic] both of those options result in u-turns, the first would go up to the southbound frontage road to flip back around. The second u-turn option would have you go left on 360 up to the courtyard and turn around there. The analysis done by txdot, by city staff and by our independent traffic engineer all acknowledge and recognize these are protected left turns and yet txdot remains steadfast in the position as late as yesterday that the preferable way to access this property, given the constraints and given the congestion at this intersection, it is a failing intersection, that the preferable way to get into the property is a left turn at that site. The -- this is again the scenario two that I just talked about, with the left turn bay. We're going to have if a moment our traffic engineer up here to answer questions. This was a drawing from the modeling she used. She did take into account also the right turns coming off of loop 360 at 2222, there will no longer be a swooping fast exit. It will be a stop exit and right turn on red or a green if they decide to put a right turn only on green. So ultimately again, staff recommendation is to allow for this access. Originally, the early txdot design actually had a u-turn proposed at the -- at the first driveway. The first corner there. And -- and terry bring in our office got this, he's going to talk to you in a moment. We were in negotiations about condemnation, we began to ask the question is this going to be the best way to access this property now that you're taking more property to widen the road. That's what led to a question about isn't it a left turn access going to be safer than right in right only because right in right only will force these alternative u-turns. It is correct that at the time of making that request we had forgotten and terry will talk about that. That the restrictive covenant existed and that the fact that we forgot shame on us, at least we raised the question and we asked txdot is this truly the safest route. I'm glad they investigated it because ultimately the decision was made by txdot that it was not. As I indicated, this has been obliterated. That's their term by the way. Not mine. They have obliterated the exit ramp there. If you have been by there, you will know that's already been demolished. So it will be a straight stop there to make that right hand turn. Then this of course what it looks like as it's been designed right now. With the left turn bay, there -- there 100-foot left turn bay, our engineer is here to discuss the modeling that went into -- towards that determination. You will see it sealed by txdot and it's an approved plan by txdot for proceeding. I appreciate the neighbor's brought this to txdot's attention, to add curb mounted delineator system to -- we do not want left out. We are not seeking left out. This was brought to the attention of txdot I think by caroltoring menson. Moon who brought it up, I'm glad they did. It's a good way to prevent people from making left out because that is not what's requested. Today we know that we have improvements with the wider roadway. [Reading graphic] they have guide lines and engineering judgment they have applied given the mold telling and conditions. They have asked for a study, city staff asked for a study, we have made that study available to everybody in this room. There's a new traffic signal at lakewood for traffic metering. We know that it's a safe alternative to avoid u-turns, preferable alternative to avoid u-turns. Also as you know it will reduce the trip lent. Instead of going all of the way to courtyard to make a u-turn and the idling, it will reduce the length of the trip for people that are coming from -- from the city west. I thought the commissioner stated it well. [Reading] I think to take the restrictive covenant based on one set of facts and apply to another I think it's important. Finally we would ask that you modify the covenant. As I said, here's terry mccooy the district engineer earlier today with his statement and he also sent this email to the neighborhood representatives indicating that the hooded left proposal is the preferable to the alternative as a physical prohibition.

Mayor Leffingwell: Your time has expired. Terry bray. Terry, you have three minutes.

Mayor, members of the council, thank you for allowing me to be here. I think that I'm suffering from a little bill spellman disease here.

Mayor Leffingwell: Me, too. Me, too. Our clients the champions, many of you know. THEY'RE IN THEIR 80s. They've been working with this property all of their lives. Before them some two or three generations back to the middle 1800s. They are not developers. There is no development on this site. The site development permit that exists on the property arose because of a dispute in the 1990s that

involved the highway construction of both 2222 and 360. That -- that -- that literally bisected the property that was the old champion farm. As a result of that settlement, it was required that some action be taken with the city prior to a date certain, in order to -- to keep that settlement agreement in existence. That was done, the site development permit was processed, at that time and for that reason. Access was then and is now an issue, always has been, we have found in trying to deal with the property and with users of the property, access is a very significant issue. When we were notified by txdot, we did not contact txdot, I do need to correct what greg shared with you, in next with the agreeing and the agreement, both to provide additional right-of-way and to provide additional access for txdot to get its equipment and people in and out of the project. We asked whether there was anything that could be done to improve the access for this site. Txdot worked with us, they were wonderful to -- to look at what could be done as michael pointed out, they came up with several alternatives, initially a u-turn, we were focused on that when they presented to us, we did not ask, the -- the left turn bay concept which in their opinion was a preferred alternative. Which in their opinion would provide safe access to this site. On that basis, we went forward and shame on me, shame on all of us, for not realizing that we needed to amend the restrictive covenant. When that came to our attention, we filed the -- the case that is now before you tonight. We are processing it. We believe that -- that the arrangement that is on the table is one that does provide safe and appropriate access and we are hopeful that you will see fit to approve that this evening. Thank you so much.

Mayor Leffingwell: I have one question, terry, i thought that I heard you say that txdot approached you and asked for additional right-of-way.

Yes, sir, that is correct.

So there's more right-of-way there now than there was back when the covenant was -- was approved?

Yes, sir. In addition, we provided right-of-way to allow a right -- right in, deceleration lane, which previously was not part of the project, that will be built as part of a txdot improvement. The road has been widened, there is more right-of-way, we have safety features built into the way that the project is moving forward.

Mayor Leffingwell: It's important to me to know the difference between then and now. I'm assuming I want you to confirm that -- that then there was not enough room for a left turn storage bay. That is correct, sir.

Mayor Leffingwell: With increased right-of-way as there is now. There is now room for that. That's the difference.

That is correct.

Mayor Leffingwell: Okay, thank you.

Thank you. Kathleen hornaday. You have three minutes.

[Indiscernible] [no microphone]

is a screen shot of the model that I put together when I was asked to analyze this condition. Our model [indiscernible] show that we're prohibiting left turn out. I have input all of that information. But it's -- it doesn't do a great job of drawing pictures. So what I've indicated here is we're looking for left in. I wanted to point out a couple of things. First the traffic study that I did, utilized very conservative [indiscernible] for land use. I looked at the highest combination of traffic that could be generated by the site. For -- in this case it was than for the p.m. peak. The retail can be defined as shopping center or it can be defined as speciality retail. So we made sure to look at both of those conditions and figure out

which combination uses generated the highest number of trips and analyze that. My traffic study did confirm that the left turn lane would operate safely, with adequate queuing capacity and there will be enough gaps in the traffic to allow for safe left turns for the property. I kind of want to explain how the gaps occur. This tiny space that provides the motor bound movement with [indiscernible] time and allows this left and through to [indiscernible] stop traffic that's traveling in the west bounds direction. That provides an opportunity to -- for these folks to turn left. The only opposing traffic they have is this northbound right turn. And the combination of volume between the northbound right turn and our left turn demand is sufficiently low for there to be enough gaps for those maneuvers to occur safely. The analysis results indicated that a 95% queue of one vehicle could be expected during peak hours. My traffic study also did confirm that the diamond interchange at the 360 and 2222 is congested and operates at unacceptable levels of service and this left turn lane, therefore makes sense, so that we're reducing the number of trips that would otherwise have to use that intersection to gain access to the site. I'm happy to answer any questions.

Morrison: Just a couple of questions. So what are the peak a.m. left turns that we would expect? , we are expecting about 45 trips. , that number is 90 trips.

Morrison: Okay. Then let's see one of the issues that's arisen is you were talking about the gaps that got created to allow the left turn and part of it acknowledged the right turn from northbound 360. And I understand there is a green arrow there now and does that assume a green arrow or not?

It does. It would assume either right turns on red or a green arrow allowing the traffic flow.

Allowing the green arrow -- okay.

All right.

There's also another phase I'm sorry that increase a gap. When the through movement eastbound [indiscernible]

Morrison: We're not seeing it. So when the through movements for eastbound traffic are going, this overlap occurs again. And it stops again the westbound traffic. That is the opportunity for right turns on red to occur. And again that becomes the only traffic that is opposing that left turn movement. There's actually two phases in the cycle of the signal. For which we have this -- this matchup [indiscernible] of the right turn volume northbound right turn volume and the left turn into the site.

Morrison: How can you, if there's an arrow for the right turn, how can you -- how can you assume there will be any stops, any gaps from the right turn?

It's actually based on the volume, the demand of that right turn. It's not thousands of vehicles. It's about 300 -- 350 vehicles, maybe a little more than that.

Morrison: That are do you know the right turn.

Over the course of an hour.

Morrison: One or six every minute.

Right. That's plenty of opportunity to create a gap or a vehicle to turn left.

Morrison: [Indiscernible] turning right. How many turns -- how many cars can do the left turn in a given

gap?

It depends a lot of the size of the gap. There's still variables. The model takes that into account. The model I have inputted a signal timing information, at both the diamond interchange and at lakewood. The volume information, i input roadway lane width, number of lanes, the fact that we have a free flowing right turn. It does have to come up to the stop bar, the right turn now. It's completely -- [indiscernible] completely free flowing like it used to be, but all of that is input into the model. This delay -- the left [indiscernible] this left in has a delay value that we can determine and it's highest delay value was in the level of service [indiscernible] category. A through d being acceptable.

Morrison: Okay, thank you.

Mayor Leffingwell: Councilmember spelman.

Spelman: Reported that the 95 percentile is to have one car in that bay. That means I'm guessing that if I'm driving down that street, 95% of the time I'm going to look over in that left turn lane, whether i want to make a turn or not, I will either see no cars or one car in the left turn bay, is that correct?

That's correct.

How frequently can you tell from your model, how often per day is that bay going to get filled up? Is it a three or four car bay.

Four car bay.

90% Of the time,zy or one car, things do stack up particularly during the high volume period. There have to be period when you don't have very many gaps. How far february can we expect that -- how often can we expect that bay is going to get backed up.

What I have [indiscernible] higher demand, any scenarios could have lower volume, therefore I would expect those cues to be less than the highest [indiscernible]

Spelman: Okay. I guess that I was thinking more in terms of a 99th or a 99 and a half percent. Because it's going to happen once a day. There's going to be three or four cars in there just by accident.

Possible. It's just very hard for me to estimate how often that would happen.

Okay.

I think that given the 95th percentile of one vehicle, we would have a very adequate storage area for those conditions when that would occur.

Spelman: Based on your training and experience, if I'm driving down the street and I really want to make a left turn into this lot, but I see that the bay is for some reason filled up, already four cars in it, there's no way that I can get into that, what are the average drivers going to do? Are they going to stop and try to get into the bay or go down and make a u-turn?

Both of those scenarios could occur. I think it depends on how quickly they see that queue moving up once they arrive. If it's been a while and they are feeling pressure, then they might consider coming another time or finding an alternate route that would still be available.

Spelman: Last question. If you were -- [indiscernible] current capacity, I have been given to understand

by the neighbors that they are arguing that the left turn is inherently less -- more dangerous than going up to the corner of 360 and 2222 and me u-turn. The reason that they are arguing that is because the left turn is against traffic. If you make a u-turn at the left turn signal, there won't be any traffic coming at you at all by definition. So it's inherently more dangerous. I wonder how you respond to that?

I think my response would be if we had shown that the level of service for that left turn was reaching the e and f range, that tends to create a scenario where it does become a situation where drivers make bad decisions. I don't think given that we're in the level of service [indiscernible] scenario that I say that is the case for this.

Spelman: We actually do a measure for how likely a driver is going to get impatient and do something stupid like trying to beat a car through the intersection and that's the level of service?

That would be our measure. That's the best we can do to try to identify drivers behavior under typical situations. [Indiscernible]

Spelman: So what you are suggesting is probably not from your point of view this is not a dangerous intersection. But wouldn't it be still safer to go all the way through to the light and make a u-turn, wouldn't that be safer than hazarding a left?

I think that it doesn't necessarily mean it's safer if you are going through a light. If you don't have any opposing traffic. Our roadway system is designed to provide lefts throughout. There are situations where it is safe to do so without a signal. And there are other situations where we do need to accommodate those trips safely with a signal.

Spelman: Fair enough, thank you, ma'am.

Mayor Leffingwell: Councilmember shade?

S [no audio] new button I never seen before. Sorry about that. I wanted to know about the plastic delineate questions. There have been neighbors who have written in to talk about how well those work or not work. I would like for you to talk about that, please. [Indiscernible] merge knowledge situation, you are trying to prevent someone from shifting into other lane that's traveling the same direction. This -- they're going to see these delineators head on. So they're going to have to literally drive over them and - - I don't know if you have seen a picture of them, they are the ones that actually are vertical and stick up out of the ground.

How high up do they stick up.

I don't know. I think it's about 10 feet, though.

Shade: Okay. Then one of the other questions --

I'm sorry. 10 Feet --

I meant inches, I think that you meet.

Four feet.

That's right. I'm sorry.

Shade: Now I'm confused.

About four feet.

Yeah.

They are taller than the height of the vehicle most of the time.

Shade: All right. The other question that I had was about the actual left turn bay as you call it. Is this a different design than typical? I'm looking at the -- the description is that it's actually -- the description is it's actually smaller than what it would normally be, shorter and narrower than txdot's usual design. Is that true?

Txdot does have its own guidelines that give minimum criteria. It meets the storage length minimum and I did -- I spoke with txdot about this. Their guidelines do call for engineering judgment to be part of the whole process. Of the design. And a lot of times you are working on a case-by-case basis and location by location basis. You aren't able to provide what might be considered optimum. However, they have signed and sealed these plans, they consider them to be safe. The model also does accurately represent the amount of storage that is being provided and the lane widths that is being provided. The lane widths is actually 12 feet. It's a typical lane width that you would see anywhere. [Indiscernible] roadway. The total width includes a raised curb in some situations and so that's where you can get into more like 15 and 16-foot widths when you include that additional curb on the side.

Okay. Those are all of the folks that we have signed up in favor. And the applicant will have three minutes at the end for rebuttal. So we will go to those who are opposed. And I have a list here. I'm going to try to -- to follow it. And still get everybody in that signed up. First speaker is bill meredith. And donating time to bill is MARY b McCalister and bill you have up to nine minutes.

Thank you, I was going to say good afternoon, now I'll say good evening. My name is bill meredith, I'm the zoning liaison for the courtyard homeowners. The court yard is the adjacent neighborhood to this champion track and we have approximately 300 households as members. I -- I am an unpaid volunteer. In that position. Our board voted unanimously to -- to oppose this proposed rc amendment purely for reasons of traffic safety and congestion much we are but one of nine area neighborhood associations that are opposed to this amendment, together totaling nearly 9,000 households as members. At the z.a.p. hearing mr. Whellan tried to important portray the neighborhood as anti-development. That is not true. Currently the closest full service grocery in any direction is a 10-mile round trip. As are most other goods and services. In 1992, the champion assets received their requested zoning for this tract subject to a number of restrictions from the city. That's already been covered, there's no reason for me to repeat what those restrictions are. What has changed since 1992? For one thing, eastbound 2222 traffic passing in front of this driveway has more than doubled, nearly tripled, totalling 27,000 vehicles per day on average as per 2007 txdot data. The drivers today, as edge in this room is well aware, of much more aggressive, much more distracted than they were in 1992. Driver civility appears to now be a rare thing indeed in austin. In 2005, when champions filed their application for site plan approval, we voiced our concerns about traffic safety and congestion. At the time I did not know the rc already existed. whellan at that time seemed proud of the restrictions and indicated that they addressed our concerns. The first time that I ever saw the current rc document whellan sent me a copy by email. The rc did in fact address our traffic safety concerns, mainly the driveway access and the raised median to prevent left turns. As a result we did not oppose, but based on the rc amendment being passed on today we sure wish we had a do over on that one. whellan and his engineer would have you believe that [indiscernible] also competing with the third eastbound deceleration lane, or right turning traffic into the track is the safest alternative. The federal highway transportation studies, however, reinforced the unsignalized left turns across oncoming traffic lanes are the source of a high percentage of all vehicular accidents. We offer instead a proven legal alternative, one that has safely been in use for more than the 16 years that I have lived in the courtyard. If west bounds traffic desiring to enter this tract would simply

drive a few more more feet west to the intersection of 2222 and southbound 360, there is a traffic light there with a protected left turn arrow. Protected meaning that when the left arrow is lighted, all other traffic around the intersection is stopped. It is safe and legal to make a u-turn back eastbound at this intersection so as to make a much safer right turn into the tract. It's not necessary to drive all the way down to courtyard drive. It's very close to the subject property. [One moment please for change in captioners]

on behalf of the courtyard homeowners association, I ask you to please make public safety your number one concern and vote no on this requested rc amendment. Thank you for your time and consideration.

Mayor Leffingwell: Thank you, bill. Next speaker is lisette mittly. Donating time is norman donor. Is norman donor here? Not here. So you have three minutes.

Yes. Five hours ago we had representatives from most of the boards and homeowners associations and neighborhood associations who I'm fixing to read you a list of, that have all of their boards have voted to oppose this requested amendment. Courtyard homeowners association, lakewood club, glen lake neighborhood association, northwest austin civic association, jester homeowners association, long canyon phase 2 and 3 homeowners association, river place homeowners association, the park homeowners association, 2222 coalition of neighborhood associations. This list represents nearly 9,000 households in the area. I'd like to remind that bull creek market sits directly across 2222 from this tract. This has two very successful and long lived restaurants, sienna and waterloo ice house. There are eight other businesses in this development and one vacancy. All of that comprises champion tract 5 and all of it is accessed by right-in, right-out only. Across on the northwest corner of 2222 and 360 is champion tract 3, which is currently apartments and an unbuilt office pad. That whole development also is accessed by a right-in, right-out only. However, medians enforcing this kind of access were not required and we defer from the risks drivers are willing to take to cross four lanes of traffic. The lessons learned at the champion tract at 2222 and 360 shows access, number one, businesses do not suffer from right in, right out only access. Number 2, permanent medians enforcing this access are needed for public safety. Thank you.

Mayor Leffingwell: Thank you. Next speaker is teresa e-bayer. And you have three minutes.

I believe pat miller is donating her name time to me.

Wanine (indiscernible). Pat buela? So you're right. You have up to nine minutes.

I don't need nine minutes. My name is theresa fair and I live in the neighborhood and use these intersections routinely. I'm here to tell you that things are not always as they seem on a technical level. You just heard two eloquent speakers who have explained things to you in lay terms. I notice several of you struggling to follow the technicality of the modeling whellan gave a brilliant presentation. My opposition is for many of the obvious reasons, but I have several reasons of concern for public safety. First the data used in the tia are not current data. They're from 2005 and 2007. And so, mayor, that equates to then, not now in terms of traffic counts in this city. In some cases the data are questionable or inaccurate. And they do not include driveway counts or existing retail center on the north side of 2222 with an aligning driveway to the opposed left turn driveway. The data of the tia needs to be reported using current traffic count data and it needs to include the traffic from this retail center that was not added to the intersection that are listed in the model. There's overreliance on this model. Second, there's an austin fire department station and emergency medical services station 31 adjacent to the site. And its egress is within approximately 1,000 feet or less of the proposed left turn drive. There's no mention of this life safety service station in the model. Third, txdot staff raised serious concerns early on that are not satisfactorily addressed. [Inaudible] said in an email regarding the model that was used called syncro. I guess I'm still not understanding something. If it says it up quickly, 4 seconded, how does that actually happen when we know that the loop 360 and 2222 signal is going to have eastbound 2222 traffic flowing and obstructing lefts into the property for at least two of the three phases, assuming

three phases. The left turn is into the property would have to wait for eastbound throughs and southbound frontage lefts to clear. So wouldn't a delay be greater than 15.4 seconds? Unless they happen to arrive at that magic window when westbound protected lefts are happening and the northbound frontage rights and eastbound throughs have already cleared? Well, there are no northbound frontage rights flowing right at the driveway. These turns now take more time to drive from the intersection past the left turn spot. So I'm not sure why this isn't reflected in the model since most people would have to wait until they cleared before crossing in front of it. Also, isn't there a possibility that westbound throughs block out the left turn since the queue on 2222 already extends to lakewood. It would seem that the delay would be longer, but perhaps syncro isn't start the timer until the car enters the turn lane. And to this reply, I guess that's one of the shortcomings of the program. I'd like to point out too cunningham's cue or comment about the queue on 2222 already extending to lakewood is in the direction of the fire station egress. Fieply, the tia, which is based on an outdated, incomplete and in some cases questionable or even inaccurate data concludes that there will be a result resultant dhai in the a.m. hours stopping the level of service (indiscernible). We need to know before any decisions are made what the true levels of service will be if we use current traffic counts, complete and accurate data to run those models. And we need to address these questions that were raised by txdot early on. [Inaudible - no mic] [inaudible - no mic] I would like to see the model rerun with real traffic counts and current speed limits or current limits traveled, not the posted speed limit, but what people are actually travelling. Thank you.

Mayor Leffingwell: Thank you. The next speaker is bob may. Bob has three minutes.

I'm bob may representing myself. I urge you to vote no on this proposed amendment. I live in the courtyard. I've been there for 18 years. I've driven east, so I drive right through where we're talking about almost everyday and I've lurnd turned left in the past on lakewood drive. I found it a very difficult left turn. I think that if you allow this left turn for westbound 2222 traffic, it's going to be a difficult left turn. And I think you've got some public safety and some heavy traffic issues involved. I understand -- and I want to make sure my facts are right. If they're not, I apologize. But I understand that the traffic impact analysis that was relied upon was done in 1991 with some updating or adjustments, but not a complete or more current traffic analysis or traffic impact analysis. I'm an actuary by prosks. One of my -- by provision. One of my clients is the austin police retirement system. As an actuary, I count on data. I look for accurate data. And if it's correct that the data is 20 years old, then that is troubling, and certainly you can extrapolate and refine, but that doesn't replace the need for a current traffic impact analysis. And so if you're looking at a really -- to me a really important traffic issue, a major arterial through northwest austin going east to west, you want to make sure you have good data to use to form a decision. Two other observations. 45 this morning on the access road going north towards 2222 to where the green light allows me to turn left. It was almost a steady stream of traffic flowing eastbound on 2222. And then when the westbound -- the eastbound traffic coming from out in the hills further comes in, you've got a heavy traffic. And it was not accurate to say it's got a stop sign. If you had made that a stop sign where you couldn't turn left, you will have a long queuing up on -- backing up on the side road of three 60. So out of personal experience, I don't agree with that observation that was made earlier by the people with the opposing view. One other small point -- [buzzer sounds] -- plastic delineators. I've seen them at the corner of arboretum and 360. They ran over them four or five years ago and the city replaced them.

Mayor Leffingwell: Thank you, bob. Appreciate it. Peter toregumson. Donating time is peter is brad knowles. So you have up to six minutes.

Thank you. Mayor, mayor pro tem, councilmembers, I'm peter toregumson representing 2222 (indiscernible) on this occasion. I talked to a lot of residents in our neighborhoods about this case and almost universal expression I get from people is a left turn there is crazy. They would never approve this. And I said well, unless something happens, it probably is going to be approved. And we've got traffic studies that indicate this thing should work fine and I'm thinking why is there such a big disconnect here? Because everybody out there feels strongly that it's a crazy idea, literally. Those are the words that have been used to me many times. I think there may be two reasons why we've got this disconnect and this big difference of opinion. One, there's a big difference of opinion among traffic

engineers about this project -- about this particular kind of situation. We've gotten opinions from all kind of -- it's a bad idea to well, it's kind of neutral, to well, it will probably work okay and another opinion, which is that, well, most drivers will only make that turn once if there's any kind of traffic at all. The second reason is maybe it's just in our area, but i don't think so. I think it's everywhere. And that is illegal maneuvers. That's an epidemic in our area. And that really increases the risk of accidents out there. And a plethora of close calls where people are taking major evasive action to try to get away from somebody who is doing one of these maneuvers. My understanding is that these kind of maneuvers are not handled on tia's. The assumption is that's an enforcement issue and that cars in the model are going to do what they're supposed to do. Many of these maneuvers are left turns, which are the most dangerous maneuvers and account for the most accidents. And as the previous speaker had indicated, everybody out there has seen people driving around or over these minor barriers to prevent them from doing what they're doing. Unfortunately in this particular case the left turn bay was not designed in a way that absolutely prevents people from cutting across or making a left turn. There's three illegal maneuvers that are particularly troubling to us and that we've seen many times. The first one is it's a protected problem that illegal left turns can be made out of that driveway on 2222 from the subject property. The barrier, there is a barrier there which is -- it's a physical barrier, but it's not a physical barrier that keeps people from driving over it. We've seen that many times. The second one is illegal left turns out of the bull creek market, which is the property, commercial district on the northside of the highway, and its driveway is aligned -- well be aligned with the driveway on the southside of the highway. At the beginning of the construction project, illegal left turns out of there was a big problem. Now that that is completely cut off temporarily, of course it's not a problem. But despite the barriers people continue to turn left coming out of there. And I believe if this left turn is put in there will be a median cut there, the barriers which are going to be put up there are not going to be sufficient to prevent left turns from the northside or southside from being made. The third kind of illegal maneuver is cross traffic that goes from the southside to the northside or from the northside to the southside. That's got to cross four lanes of traffic. It seems crazy that people would do that, but believe me, they will. We've seen this kind of action pf. Unfortunately the barriers that are put on in this particular left turn bay do not prevent that. The only way to absolutely prevent those kind of illegal maneuvers which are so dangerous is to put a real physical barrier across there, a continuous median. Thank you.

Mayor Leffingwell: Thank you. Mr.

Riley: Peter, I want to ask you a quick question. I know -- I'm familiar with the site right next to it, the old county line on the lake where I used to work around the time before the first traffic study was done. And the whole traffic situation I agree was very different back then. I want to hear about your experiences more recently in terms of -- there's no protected left there and yet a left turn is allowed into the county line right next to the site and a left turn is allowed out. What have you been seeing there with traffic entering and exiting the county line?

It is hairy. [Laughter] I have made left turns out of there, I'm afraid, and i try to be extremely careful because that is really a life-threatening situation. Traffic is coming down -- traffic is coming from three 60 and they're basically going 50 miles per hour there. And you can sort of see it over there, especially if it's dark. And the traffic coming down the hill going westbound is also going about 50 miles per hour and there's not great visibility that the particular location. It is extremely treacherous getting out of there. People turning in westbound who want to go to county line are turning in there, turning left, and that is very dangerous maneuver also. That is an intersection that you can't be too careful there.

Riley: Have there been accidents there?

I don't know the accident statistics, but I would be flabber graft fire department there weren't numerous accidents there. Flabbergasted if there weren't numerous accidents there.

Mayor Leffingwell: Penn dingler? I'm sorry. Yes. I'm just going by the list you gave me. Carogumson. And carol has some -- I've got a list here. Dale buela is not on my list. He's on the computer -- I'm going

to call his name sooner or later. I'm just trying to go by this list first. But anne dingler is deferring to -- all right. Dale buela. Okay.

Thank you, mayor, council. I'm dale buela. I'm a resident in jester neighborhood. Our jester homeowners association board voted unanimously to oppose this condition. I'm not going to address the safety conditions because to me it's a no brainger. Anybody who has looked at this knows that this is totally unsafe proposal. I wanted to just talk briefly about the restrictive covenant. Neighborhoods think when they get a restrictive covenant that they have some protection. And then someone comes and wants to make a change. I think that unless there's agreement of the neighborhoods, we shouldn't be changing restrictive covenants. They were designed to be restrictive. And I think my focus is they ought to keep their promise. They got support of area neighborhoods, area associations. They got the support of residents because they told us they would not do this. And now they want to do it. And I think to me that besides the safety issue, that's my major concern. We deal with these restrictive covenants and then developers backing out of them regularly. And I would just like to see this stopped. I would like to see the city enforce the restrictive covenant and I would like to see the developers honor their promises. And that's my main focus. Thank you. [Applause]

Mayor Leffingwell: All right. So both anne dingler and carol toregumson want to defer. All right. Let's see. Let's see who all you have donating. Joyce (indiscernible).

I'm anne dinkler, the zoning chair for the northwest austin civic association. Incidentally, our boundaries are from -- because there were some surprised that the far west gal was testifying on this issue. But our boundaries are from 360 to mopac, from 2222 to spicewood. We're one of the largest neighborhood associations in austin, having been comprised of the merger of two or three in past years. I will tell you that our board unanimously voted to oppose any amendments to the restrictive covenant. In itself is historic. We run the gauntlet for very liberal board members to very conservative members, and any time we get agreement on anything, it's quite an event. All our board members were concerned about the intersection, anywhere from a third to half our members come from this immediate area. And the people that I talk to that live west of this intersection are equally concerned because while it's 27,000 trips per day in 2009 east of the intersection, it's 42,000 west of the intersection. So any issues relating to safety with an accident is going to cause delays on not just the immediate neighbors, but all those neighbors along the western portion of the intersection. So what about -- what do we know about this intersection? Well, I will bring up zapalac's memo to -- sorry, george. We all love you. And I will quote, just as whellan did, heavy directional traffic volumes on 2222 during peak hours create unsafe conditions for unprotected left turn maneuvers. This is also a quote, no whips to provide storage for turning maneuvers. The driveway location is too close. Weaving movements from cars turning left on the three 60 exit ramp merging with 2222 eastbound. So what's changed? The volumes have doubled, maybe tripled. Left turns are not protected without a signal. That's what's meant by protected. As you saw with MR. McCOY'S EMAIL, THEY Don't want to signalize that. So what happens if there are problems? And the left turns with a signal, we have a substandard bay that could be built that five percent of the time could have two cars, three cars or up to five cars because the left turn lane is 100 feet. And that's according to the city's traffic planner that evaluated this. I'll heave you with a memo. Understand that while it's 100 feet, the average width of a car is 20. You have to have space between the cars, which is hornaday is pointing out three or four cars, but it's modeled for five. So we have a substandard bay narrower than usual, shorter than usual that could have five percent of the time more than one car in the peak. We still have a driveway too close to the intersection. Txdot has told me it's 409 feet, and there still will be issues with cars who had to stop, turn right and enter the lanes at slower rates of speed. Even with the elimination of the sweeping right turn due to the addition of the deceleration lane. When the property across the street is now developed and could turn left on to the eastbound 2222 despite the addition of delineators that are there now and really are routinely driven over. All it would take is mike in a pickup, and I think mike you still have the pickup -- no? I'm sorry. Well, that's how these are -- while they're up, they're plastic and they bend. And they don't get replaced or fixed, and I would encourage you to take a look at these because they don't get fixed. This is txdot. No one has money, right? So what is being solved with the addition of the left turn bay that may or may not have enough queue space? Can we say we've dressed all the other issues that zapalac brought up

in his initial memo? I want to point out to you traffic modeling is just that, it's modeling. spelman give you examples, I'm sure. You can underestimate the traffic, it can inaccurately predict growth. And I do want to remind you we still have large tracts that are undeveloped on this section of 2222. There's a 44-acre tract immediately to the east of this. And it does not take into account those drivers who might cross five lanes of traffic, as they do now, speed through lights and enter traffic at different rates of speed. While we're not experts, we have pointed out issues that caused the tia to be resubmitted three times. And we're aware of errors that the city did not ask them to correct. For example, the number of cars turning out of the driveway. [Buzzer sounds] is that three minutes?

Mayor Leffingwell: No. That was sex. -- No, that was six. Time flies.

I'll finish up quickly, I'm sorry. I have run this by a traffic engineer. He had told -- and I asked him 30 years whether it was general to think it's safer to turn left across three lanes of traffic from an unsignalized left turn bay --

Mayor Leffingwell: Excuse me. Did you have six minutes on this speaker? And six minutes is up? Okay. So please conclude. Finish your sentence. Paul robbins has just donated three minutes to you.

Thank you, sir. So for example, the driveway counts that were put out when we were finding additional errors in the tia showed that the full beak market had only -- bull creek market only had 4,000 square feet of retail. We pulled up the site plan. It has 15,000. The restaurants counts were not accurate and we think that the driveway counts are pertinent as to how many people might try to come out. And of course this is not something that was even scoped. I have run this by engineers. I ran it by a 30-year traffic engineer, and i asked him in general is it safer to turn left from an unsignalized left turn bay or make a u-turn with a protected left arrow to signal? For example, I'm thinking of the intersection of 2222 and loop 360, do you think it's generally safer to turn left across three lanes of traffic from an unsignalized left turn bay within 409 feet of the intersection or is it safer to make a u-turn by travelling west on 2222, turn left with a protected left turn arrow at the signal of the loop, and as you will note in your tia, you could do two different movements there. We're not sure what was actually modeled. Use a protected left turn arrow at the signal in the loop of 360 southbound frontage road and travel back east on 2222 to access the property. Posted speed is 45. Counts are 27,000. It's rated an f in the am and p.m. peaks. His response, it depends on the volume and speed of traffic. Generally in most cases it's safer to do protected u turns with signals rather than cross three lanes of traffic. And I'll point out to you whellan has indicated to you that txdot GAVE MR. McCOY'S OPINION, Professional opinion, it was safer to use that turn arrow, we know -- and I'm happy to provide -- make copies and give them to you to look at. We know that the traffic engineer that was looking at this question raised the very questions that bayer raised as an engineer. And that was when this was first modeled without the convenience market traffic included in the modeling. That gap is now 24 seconds. So two days later they decided that this was within your control to decide. You are not engineers. You have to make assumptions about the data, the modeling, the data and human behavior. [Buzzer sounds] what do you think?

Mayor Leffingwell: Thank you.

Martinez: Mayor? Just for the record, miss dinkler, I drive a chevy volt and I'm averaging 289 miles to the gallon. [Applause]

yeah, but I got my hybrid in 2004 when gas gas was only a dollar or two. [Laughter]

Mayor Leffingwell: Carol, was it your idea to be the finisher? Let me call these other names then and make sure they don't want to speak. Nicole perado? She's gone. Richard antone? And donating time is mary antone. So you have three minutes.

My name is richard antone and I'm the president of the northwest austin civic association. This area is just to our south. It is also an area that many of our residents travel daily, including -- well, i do travel it

often except now that it's blocked off. I've lived in this area for 25 years. And I'm very familiar with this intersection and this area and the traffic flow. I have frequently tried to make a left turn on to lakeway before it was closed out of -- lakewood before it was closed off and that's a terrifying experience when you look at your rearview mirror and see someone barreling down there at 60 miles per hour trying to decide whether or not they're going to swerve out of the way before you make a left turn. This -- all these traffic assumptions I think are faulty and one main perspective, and they're done before all the changes have been made to this intersection and before we've tested what the traffic flow is going to be. So right now we have a very changed situation. Soon we'll have a light at lakewood, a light at 360, 800 feet away, and somehow or another somebody wants to put a left turn in between there. It makes no sense practically, trafficwise and certainly dangerwise. Just when we're about to facilitate the traffic flow through this area and help the people coming out of or going into lakewood, we want to jam it one a left turn lane. It is -- just makes no sense. The protected u-turn is certainly a good idea and does allow the right turn only into this area. The one benefit that I can see to the left turn in this station isn't very far away, so when they have to come out and clean up the mess they don't have very far to drive. I also want to point out from the numbers here, and that's the thing that I think is very important to point out. The traffic engineers are looking at numbers. They're not looking at drivers. And all of us know that we can talk about what people should or shouldn't do. That doesn't mean what actually happens. And as people have pointed out, the stop signs that are supposed to block the left turn into the southside market are useless. If somebody wants to drive over them, they're going to drive over them. If somebody wants to make a left turn out of this property on to westbound 2222 they're not going to do it. It's not going to stop them. So you can't ignore the fact, the realities, the common sense or lack thereof of the number of drivers that go through there. If nothing else we're looking at numbers, let's look at the fact that according to the engineer we're talking about 150 people a day making a left turn into this area. Contrast that to the 9,000 residents in this area, which seem pretty generally opposed to it, plus the 50,000 or more traffic drivers going back and forth through this area. To inconvenience those 150 people seems a fairly small price to pay to protect the other 50 or 60,000. [Buzzer sounds] I had more to say, but don't have any time. Thank you.

Mayor Leffingwell: Thank you. John buselman. Not here. You're the last speaker signed up wishing to speak, carol toregumson. Donating time, connie (indiscernible), donna chan, here, johanne richards is here. So you have up to 12 minutes.

First of all, I'm going to just take a moment away from what I was going to say to address a couple of things that were said during the -- during our opponents' opening statements. IT IS TRUE THAT MR. McCOY, At my request yesterday, differed with a statement of his position. I would like to point out THAT FOR MR. McCOY TO SAY That this is his opinion that the left turn is a preferable option. Did we really expect him to change his position after he agreed to that left turn in 2008? I mean, did we really expect him to say anything else? The important part of his statement was that they are committed to supporting whatever the city of austin decides to do. Okay. I've been interfacing with txdot on the bridge project since I first met with terry McCoy FOR A BRIEFING IN March of 2006. At that time and for three years thereafter, txdot was planning to install a solid median on 2222 on the east side of 360 as part of the bridge project. It was not until txdot began talks with the champions' attorneys about acquiring right-of-way they needed for the bridge project that there was any thought of a left turn near this location. I've lost my place already. terry McCoy agreed to a left turn on tract unaware that there was an rc in place. bray was well aware of the existence of the rc when he was negotiating the right-of-way with txdot, and we have a little timeline here which I would like to share a couple of things with you, which is they started discussing this in the summer of 2008. On october 21st of 2008 txdot and the champions reached agreement on the right-of-way acquisition terms and by this point the bridge project team had agreed to the left turn. But txdot resisted, tying the plans to the agreement as desired by mr. bray. No disclosure of the rc had taken place. On november fourth, which is, what, two weeks later? With the txdot moa on his desk, terry bray filed a site plan extension stengs application with the city in which he referenced the rc, including the tia determination worksheet which listed the restrictions on that site. bray declined to schedule the closing of the right-of-way acquisition until he had plans in hand that showed that left turn. On february 2nd with those bray finally agreed to schedule the closing, still no disclosure of the rc. Then again in june, only bray filed another site plan extension for the champion

tract and again in his own handwriting referenced the restrictive covenant and included the same tia determination worksheet listing those restrictions as a matter of public record. I have those documents if you want to see them. At that point txdot had included -- by june of '09, I guess, they had included the left turn into their plans, which had originally not had the left turn in it. It wasn't, of course, until I stumbled over this last summer and realized that the plans had been changed. It was brought to txdot's attention that the restrictive covenant existed. And on july 6 of last year i provided that restrictive covenant to txdot, at which point they decided not to go forward with the left turn until the city council lifted that restriction. MR. McCOY AGREED TO THE Left turn before he was aware of the rc, but because the left turn was not included in the original plans, the only way to accommodate the left turn was by designing a marginal left turn bay, as we've already described, it's shorter than normal. The plans were for a 14-foot solid median. And the problem when they got to build the left turn bay in is that is not enough room to put in a turn lane with a concrete barrier on the northside. So the only thing -- the only option txdot has is to put in the plastic delineators. It's not a function of txdot's unwillingness to do so, they simply don't have the space because it was never in the original plans to have the left turn there. So we don't -- we cannot have the concrete curb on the northside, which if we could have that would prevent all these dangerous turning movements, but txdot has said that that is not in the cards. Those illegal maneuvers, by the way, the ones where people are cutting across from bull creek market on to eastbound 2222 and across from the north and south tracts, that illegal movement was brought to my attention by a txdot traffic engineer who is concerned about those issues. Again, the left turn didn't come to our attention until last summer unfortunately and txdot was already -- had already begun the project, which is the reason that we've had this long and lengthy discussion. It would have happened years ago, of course, if the restrictive covenant had been disclosed or we had known about the situation. Txdot has made the decision to leave -- to let you make the decision on whatever basis you choose, and I've had many conversations with txdot and they understand that there are other issues besides the strictly traffic flow issues that the city council needs to take into account, such as the fact that deals were made, when zoning was put in place, neighbors aren't happy. You have other concerns about txdot and that's your decision. At this point you've received hundreds of e-mails, I know, from residents in our area and you've heard from the boards of directors of at least nine homeowners associations, neighborhood associations who oppose this amendment. And why are they all writing to you? Not because they're angry at the champions. Most of those people have never heard of the champions. They are concerned about the safety of 2222. This is a public safety issue. It was 20 years ago, it is today. In 1992 left turns in were considered a traffic risk and it's more true now than ever. According to the federal highway administration, left turns into driveways near intersections are a prime cause of traffic accidents. And I have a document here which some of you have seen before, access management in haven't of intersections. In which -- which one of the first recommendations, eliminating left turn movements at driveways is beneficial from a safety perspective. And this says, approximately 72% of crashes in a driveway involve a left turning vehicle. 28% Of crashes are due to an inbound left turning vehicle conflicting with opposite direction through traffic, the exact model that we are talking about here. So this suggests that reducing or eliminating left turns to or from driveways combined with driveways and conflict points enhances safety. The tia updates submitted by the applicant does not address traffic safety because that's not what this tia was designed to do. The tia updates that staff looked at only addresses traffic control, traffic movements. So an argument about the relative safety of the left turn is not what the model shows. We've talked to a number of traffic engineers, including at txdot who have expressed serious concerns about the public safety aspects of the proposed left turn regardless of any minor improvements of traffic flow which might be shown in that tia update. And the reason that there are so many people who have written to you and the reason so many of us have come today, although most people couldn't stay all day, is because we have real life experience on 2222. We drive it everyday of our lives. It is the most dangerous road you can imagine. And the thing that makes it the most dangerous are driveways. It's people turning in and out of driveways, especially turning -- left turns across multiple lanes of 2222. So we are not here being nervous nellie's. We get our lives put at risk almost on a daily basis by people turning in and out of mount bonnell road and other driveways along 2222. In some cases there are alternatives like the county line barbecue. I mean, there's no choice. But we have a choice here. We're only 400 feet from a traffic signal. People could go under the overpass and make a perfectly safe left turn on an arrow and come back. If the traffic in that direction is too heavy, they can go north on 360 and there's a u-turn before you each get to lakewood drive. You

can go to courtyard, you can go west to city park road. You can turn before you get to city park road. There are a number of places where you can turn around. And most of those are on protected green arrows. So here we are looking at the situation and you have two options. You can amend the -- agree to amend the covenant or not. The tia assumes that everything works. What happens if it's wrong? Where is the risk? One of the questions that was asked tonight was about timing and whether or not there was -- the queues. Whether or not people would be waiting in queues, etcetera. That model is just that, it's a theoretical model. What happens if it's wrong? More importantly, what happens five or 10 years from now when the traffic has doubled again? Because it's going to. As the economy picks up, there's a ton of development going on near 2222 and of 20. The traffic is going to continue to get heavier through there. So what happens when those gaps get smaller and shorter. Then what? What's it going to take before that left turn gets closed down? How many accidents would have to occur at that intersection for that driveway -- where that driveway is located in that left turn? What would it take for the city to say enough? How many people would have to be injured? How many people would have to die? The signal is being installed at lakewood drive, which is again only 800 feet from the signal at 360 and 2222 which is below the standard link lengths that txdot requires. They usually require a thousand feet to put signals apart from each other at that speed on a state highway. They put one in 800 feet because lakewood drive because of left turn accidents at lakewood drive. They were averaging five accidents a year. And that was enough accidents that txdot made an exception for the distance and put that left turn signal at lakewood. BUT YOU HAVE MR. McCOY'S which he said it was impractical and operationally not feasible to signalize this left turn. So what happens when this left turn fails? Because it's not a matter of if, it's only a matter of when. And the question I have for you, the question that 9,000 people who have-- whose representatives have contacted you -- nine thousand households. That's like 16,000 people and all the other residents in our area who doesn't have an opportunity to come in tonight or sign in against this or send you an email. The question we have for you is what's it going to take to fix this? Are you going to risk a lawsuit with the champions over it? I don't know. [Buzzer sounds] before I leave here tonight I want someone on this council to tell me how many people would have to die before the city would take it away? Thank you. [Applause]

Mayor Leffingwell: So the following are also signed up in opposition, not wishing to speak. Catherine glassner. Cecelia burke. Allison randall, michael randall. So those are all the speakers that we have signed up. So we'll have three minutes from the applicant for rebuttal.

Thank you. Michael whellan. If we could go to that elmo first. The elmo is going to show you, I started with data and experts. I want to also emphasize, we would not be here tonight if we did not think this was a safe alternative that made sense. There would be no reason to be here if we didn't have staff approval and recommendation and we didn't have txdot recommendation. It just wouldn't make sense. We support the neighborhood's desire to have a safe way to access this property because without the access you're going to do exactly what councilmember spelman noted, which is make the first u-turn possible. It's an illegal u-turn, but people are going to naturally do that. With this left turn bay, 95 percent of the time they will not go for that unsafe quick left turn. What I'm showing you here, and I think it's significant, you can see back in 1999 -- this is txdot counts. This is not michael whellan or kathy hornaday. The road hasn't doubled. It's the same as it was 10 years ago. What we did, that took you through 2009. We used a growth rate bigger than the one that txdot uses. 5% instead of the 1.72%. Thanks. That by the way was in response to a series of questions that were asked. The modeling that has been done is not modeling that is done in a silo. It's a national system that is utilized by txdot and by city staff. The numbers were reviewed, not just by txdot and city staff, but by carol and the entire community. Again, the goals were the same. What is the safe alternative to accessing this property? It is not a matter of looking for the unsafe alternative. Anne dinkler identified a 30-year engineer who specifically said exactly as you would expect, it depends on the volume and speed and the conditions. The conditions have changed. That's why we're here today. martinez got a chevy volt instead after pickup. He has changed conditions. These are changed conditions that exist right now. 20 Years later different car, different roadway. Again, the data demonstrates it hasn't doubled. The data that we use was current data for the intersections. The intersections are failing. They're f's. Be having the left turn lane there you reduce the amount of congestion into the intersections. We acknowledge they're level f by having a complete barrier that doesn't allow the left turn lane. You push all that traffic into that

intersection. Again, we've heard people say it's a bad idea, it's a bad idea. Traffic engineers say it's a bad idea. We haven't seen those traffic engineers. We haven't seen their studies, but what we have seen is the data that has been provided and the analysis that's been done by txdot. Obviously they will continue to be constraints. We've heard anecdotal statements about coming out left from the county line. We're not asking for a left out. And instead of stopping without any protection like you do for a left into the county line, this will have a bay that will protect you as you make a left. That is why they have left turn bays. The change conditions, there are constraints here. OBVIOUSLY terry McCoy has identified those. But in his professional opinion, the hooded left proposal is the preferable alternative to having a physical prohibition of left turns with due consideration for all the factors and constraints. Again, I wouldn't be here if this was an unsafe alternative. There would be no reason to be here without staff and txdot approval. [Buzzer sounds]

Mayor Leffingwell: Thank you. Questions? Councilmember riley.

Riley: Michael? I do have one question. I wanted to ask about what would happen if -- if you don't have that left turn here and you go on down, as the neighborhood suggests, you go down and take that protected left, it seems like it would be a pretty safe thing to do, you've got a protected left down at the intersection to do a u-turn there with the protection of that left and then you can just take a right into the site. And what's dangerous about that.

I'm not a traffic engineer. I'm going to ask kathy hornaday to explain the two options because the first option, the first u-turn against traffic on the frontage, and the second one.

Riley: I can see why the first one, the first opportunity to take a left does not seem safe. But if -- but the first legal place where you can legally take a left, just as if you're going to go southbound across the lake on 360. And instead of going down and entering 360 you just do a complete u-turn. I don't understand why that's dangerous?

I'll have miss hornaday answer, but you're asking about a legal u-turn as it exists now. And that illegal u-turn will be used because we've already heard anecdotally what will happen when people are pushed to get somewhere.

Actually, chris, I don't think we've ever said that that maneuver was unsafe. I think what we've always said is that left turn into our site is equally as safe given the analysis results that are -- that came out of the model that we did. It's not unsafe to turn and make a u-turn at a signalized intersection if you're doing it at the furthest one and that's not ever what we've said.

This is really just a matter of convenience of not having to go down that a little bit further.

I think what we're hope to go do is not add additional traffic to an already congested intersection.

Mayor Leffingwell: Councilmember morrison.

Morrison: Miss hornaday, one of the comments that someone made was the engineering that you do is about traffic flow, not about traffic safety. Could you comment on that?

Yes, I'm sorry I didn't say my name earlier. Kathy hornaday at HDR. The fact that we have identified a level of service for that left turn, I think I mentioned four --

Morrison: E, is that right?

It's a C rating. C. So that is what we get out of that analysis is we know that they aren't delayed to the point where they're going to make not good judgment in terms of whether or not they should turn. They

have plenty of gaps in the traffic stream to make a safe maneuver. I think if we started getting into the e and f range, there would be cause for concern. And those are times when we do start looking at signalizing an intersection. We don't need to in this case because gaps are provided by the signals on either side of this intersection.

Morrison: And will those gaps exist even when the volume increases due to increased development?

We have projected out to I believe year 2015. And that would be the projected buildout of the site. So the analysis results take into account that far down the road.

Morrison: And that's the buildout of this particular corner, this project, but it doesn't take into account additional -- or does it take into account additional development you might find?

It does. It has a growth rate-- we've played a growth rate to traffic volumes at the intersections to account for. And we've been conservative with that number.

And what was that number? 5 percent when actual growth rate in this area is 1.7.

Morrison: Over the past certain number of years?

Over the past about 10, 11 years.

Morrison: Those are the whellan -- okay.

And you know, those are things we do. We look at actual data. And that's the only thing i can work with. I can't really work with anecdotal data or anecdotal information. We've tried in every step of this process to be as conservative as possible and we've had it reviewed by three levels of professional engineers.

Morrison: But to get back to my first question about analyzing traffic flow versus traffic safety, you're saying that yes, in fact, you're saying it's safe.

I would say that it's safe just as the engineers that was quote bid the neighbors -- quoted by the neighbors. It depends on the opposing traffic and the speed of that traffic. And that's exactly what our model has incorporated, it's incorporated the opposing traffic volume and the speeds and our resulting level service is in a safe range. If I can simplify.

Morrison: Okay. And you didn't really analyze the legal left turn -- legal u-turn up to lights, but as far as you're concerned from a traffic engineer point of view, that's a safe u-turn?

It is. It's a safe maneuver. I would not argue with that in any way. I think the one that's done at the intersection before you get to that obviously is not. And I do believe it's likely a lot of folks will try to do that.

Morrison: Is that from modeling object anecdotal? [Applause] I didn't mean to insult you. I was just wondering.

Is it given the same weight? I'd love it to be.

Morrison: But it's not something you put in your model?

Absolutely not. I did not model that scenario at all. What I modeled is folks that actually go down to the courtyard. And the reason di that is because I wanted to see what the delay increase would be if again I

made the most conservative assumption, which was that we wouldn't have the same traffic coming back through that first signal. Any time we add traffic to the signal we have to accommodate it with more green time. So I chose to assume that they would go through the first two signals and head down to courtyard and then access the driveway on the frontage road. Just to make sure that I wasn't comparing it to what might be considered a worst, worst case scenario for the no left turn condition. Does that make sense?

Morrison: Not really because it seems to me if you were to do the u-turn and not -- you're still going to have someone coming through that traffic. And you're not modeling the left turn at that point, the up protected left turn, you're just modeling what would happen if someone had to go down and around.

Right. So there's two ways they can make a u-turn.

I understand that.

The first way adds traffic through three lights and the second way adds traffic only to two lights. So I chose to compare the scenario where we're only adding traffic to two lights to the scenario where we actually provide a left turn at the driveway.

Morrison: I thought it would be the other way, but that's all right. That's neither here nor there.

Mayor Leffingwell: Council, more questions? Councilmember Spelman.

Spelman: Zapalac, I would like to rouse you. I have been relying on your traffic engineering expertise for 14 years off and on. Mostly off. You're happy about that. [Laughter] I wondered if you could weigh in on the safety issue. I have a very specific question, but let me ask you the general question first. From your point of view you've seen the TIA submitted by the applicant (indiscernible). From your point of view is there a safety issue here at all? Is there an issue, but it's not a serious one that we should not be too worried about or is there a serious safety issue as the neighbors are suggesting?

Councilmember, I hope I don't destroy my credibility, but I'm not an engineer.

Spelman: I understand, but you've been talking about traffic off and on for quite some time. I know you know all about it.

And this TIA was reviewed by several traffic engineers in the city. We scrutinized it very carefully. The conclusion of the city staff is that allowing the left turn is an improvement over the option of not allowing the left turn. Even though -- we feel that either option is a safe maneuver. There of course is always some risk whenever you have left turns, but we don't feel that it's a serious safety problem in this situation.

Spelman: Okay. Saying it is not a serious safety problem seems to me slightly a code word for there may be accidents, but they're not going to happen very often.

Well, it's a bit hard to quantify, but we think based upon the analysis that was done that there would be sufficient drops in the traffic to allow for safe left turns to be made at that location. As I said, there's always the possibility of accidents, but we don't think it's a serious problem.

So there could be accidents, doing all sorts of things, including doing perfectly legal and ordinarily safe u turns at a green light. That will happen sooner or later too if we wait long enough. Why would the left turn here be preferable to making people go down to the two lights down and make a u?

Well, probably the biggest reason is that does put a lot more traffic through the intersection, which is already very congested. So if we can take some of the traffic out of that intersection, it could enhance the operations for everyone. And then in addition, you know, it's hard to quantify what the relative safety is of the different maneuvers. Certainly when you introduce a left turn at an unprotected left turn lane, yes, there's the possibility of accidents. On the other hand, if people have to go down and make a u-turn, there's a possibility that they'll make a u-turn at the first opportunity, which is an illegal maneuver. There's the possibility of conflicts at other points as well. They would have to go through three signals to get back to the site. So that adds further opportunities for safety conflict there. So it's a bit hard to quantify, but on the balance we feel that the proposal is a safe design.

Spelman: Let me ask you a real specific question. toregumson asked a question a few moments ago a question they thought was tore kel, how many people have to die or how many accidents have to take place, but I'm asking it in all seriousness and not rhetorical at all. Suppose we would to say yes to this proposal, allow the cut to be made in the median and allow left turns to be made. But it turns out it's not a safe maneuver after all. How quickly would we be able to identify that this is not a safe maneuver, that we were wrong in allowing that to happen and that we should prevent it from happening?

Well, whenever txdot issues a driveway permit, they put a condition on there that if -- in the event that traffic problems occur in the future, the driveway may be required to be modified or closed. So they have the ability at any time if it becomes a problem to go in and either modify the median braib, close it completely, modify the driveway, bhafer it might take to do that. The city and txdot do analyze accidents on a routine basis. They look at statistics annually. They certainly look at serious accidents on a very regular basis to see if there are problems that can be corrected by improved design. So that is a constant -- one of the biggest concerns of the city's attracting engineering section.

Are there standards for at what point you say we need to change this driveway? I don't know what the instrument would be. Are there some standards for this or is it just we're going to look at the accidents and see what we think?

Well, there are some judgments that can be made base pond an analysis of the accidents. You can look at the toip of accidents that are occurring. Are they rear end accidents, right angle accidents, different -- things like that, you can tell from an analysis of the accidents what is causing them and then make a judgment as to what might help correct or eliminate them.

Spelman: So I guess what you're telling me is there really are no hard, fast standards, you just have to look at the totality of the evidence.

Well, I wouldn't say they're hard and fast standards, but there are procedures that you can look at to go through an analysis to help identify causes. And then identify corrections.

Spelman: Under what circumstances would you conclude or do you believe that txdot would conclude that this left turn lane was erroneously platted?

If there were a large number of right angle accidents, if there were serious injuries that took place, if there were fatalities. Certainly it would flag that area as a place that needed intensive analysis.

Spelman: I hope so. Thank you, george.

Mayor Leffingwell: The floor is open for further discussion or a motion. Councilmember spelman.

Spelman: I kept my day job, so I get to make motions in situation like this. This is a very -- after i heard back to back from the applicant, michael whellan and his traffic engineer, and then as soon as they walked out we had to actually wait a decent interval, I think two or three minutes before carol

toregumson and her friends came by so they wouldn't actually meet in the hallway, but back to back i heard both the pro and the con. And as quickly as I could i walked outside on the mayor's balcony any to smoke a cigarette. My apologies. It was such a great indicates study in public policy. Here's a good case in favor, here's a good case against and how on ertd do you sort these things out. I would like to take my students to take a look at this in advance of my having to make the decision. [Laughter] but they're not here. They've all just graduated last week and so I've got to figure it out for myself. It seems to me the biggest concern here is who is going to be better off and who is going to be worse off? I don't know if this is a safe left turn or not. And the only way to tell is to try it and see. Unfortunately the consequences of trying it and seeing and finding it not to work out very well are rather grim. And I wouldn't want to try it unless I had pretty good evidence that it is actually going to turn out okay. The down side for not allowing a left turn is that there's 160 or so cars that would travel past, some of them would make that legal u-turn. Most of them probably would continue up 2222 and whenever else they're going, stop at the shopping center and the shopping center would get a few fewer customers that the other place would. At least in some peak hours. The upside to saying no is that fewer people would try a left turn. Some of those people who would try the left turn would probably try tim properly, would get into accidents. So we have a trade-off here between the convenience of a few customers and the profits of the shopping center on one side and the safety of not just the people making that left turn, but the other people who are using that road on the other. If I had to choose between convenience and safety, i realize it's not that simple a rhetorical choice, and there are always shades of gray, but I are have to pick safety in this particular case. Because I'm not completely convinced that that left turn is going to end up being safe given the behavior of drivers travelling on 2222 during rush hour on their way home and frustrated by all the traffic problems they have had just to get to that point already. So mayor, I move to -- I'm not sure the proper instrument in this approximate particular case. Is it movement to deny? Ed?

Mayor Leffingwell: Motion by councilmember spelman to deny the request. Mayor pro tem? Mayor pro tem second. Councilmember cole.

Cole: I have a quick question of george. I know we're contemplating safety versus convenience, and if we did recognize that we had a huge safety issue, how fast could we get out there and put in a light. And what I don't know is do we have any idea of the range of cost of such a light or are those normally - how are they normally funded? Is that with grant funds, plus our funds?

Councilmember, a traffic light that would serve only one development like this would have to be funded entirely by the property owner. And the cost of -- this would not be a full traffic light. Normally the cost is about i believe 110,000 or so. It could be somewhat less for this type of signal since it's only serving one direction. But realistically neither txdot nor the city would want to see a traffic light installed at this location if it turned out that there was a serious problem, we would look at every other avenue such as comploasing the median break entirely before we went to install a signal.

Cole: So there is a recourse if we discover that there does become a very imminent traffic safety issue. There are other recourses. In addition to possibly having the owner install a light.

Yes. We think the light would not be a viable option at this location. So some other measures would have to be taken.

Cole: Okay. Thank you.

Mayor Leffingwell: Further discussion? Councilmember shade.

Shade: I can't give a speech like professor spelman down there, but i think that he laid out very well the trade-offs. And I agree that safety is more important. So I'm going to be supporting the motion.

Mayor Leffingwell: I'll just say that I also believe safety is more important than convenience. But I don't

think it's been demonstrated here that safety is compromised or that there's less safety with this left turn than there would be with the alternative. Frankly, I think 2222 is unsafe from -- all the way from i-35 to 360. So that's the nature of the beast. The question is is this particular intersection going to be less safe than the alternative of not having this left turn at the intersection? I believe that all the testimony we've heard from -- I don't believe that txdot would approve this if they thought this was the least safe alternative. The city of austin staff has recommended for this left turn. So again, I don't believe that the case has been made and this is less safe than the alternative. [Inaudible]. Further questions? All in favor say aye? Opposed say no. It passes on a vote of six to one. [Applause] council, we have three public hearings to consider. Without objection I believe the quickest one is going to be item number 98 so we'll go to item 98 if there's no objection.

Good evening, council, my name is greg guernsey, I'm the director of planning and development review. Item number 98 is an ordinance amendment to amend title ii and title 25. City code relating to special exemptions, fee waivers for certain ordinance violation. As a result of anonymous complaints triggering enforcement action by code enforcement on several residential properties in south austin neighborhood known as fair view last year, this amendment is proposed to assist affected property owners with an alternative process the proposed oarns would recognize conditions non-compliant with building permit and land use code that may exist in and that may -- that many long-term property owners may not be aware of these conditions. This amendment would apply to property located both in the full purpose jurisdiction areas within and would not apply to property located within the e.t.j. As a means to address compliance with life safety issues and equitability, the amendment will allow the expansion and this would be in limited circumstances as authorized by state law. Under the current ordinance amnesty through an exemption from compliance provision is limited to only structures that were in existence on march first of 1986. And this a date when the city of austin more current zoning ordinance, one that replaced the previous cumulative zoning ordinance came into effect. It would apply only to an existing residential structure or portion of an existing residential structure that violates the zoning set back. And the residential use that is permitted in a residential zoning districts. So this would apply to a single-family home or duplex or a two-family residential use. Something like a garage apartment. The special exemption would be granted after the building official performs an inspection and determines that the violation is not opposed -- does not pose a hazard to life, health or public safety. In addition the board of adjustment may grant a special exemption after only -- only after a noticed public hearing is held and after to make certain findings that may include the following. The noncompliance of violation existed for at least 25 years or at least 15 years if the application for this special exemption is submitted within two years from the effective date of this ordinance. Two that the permitted use is a legal nonconforming use. Three, that the structure does not share a lot with another primary residential structure. And four, that granting a special exemption would not alter the character, impair the use of adjacent property developed in accordance with the city code or grant a special privilege that is inconsistent with other properties in the area in which the property is located. The proposed ordinance also allows for a fee waiver or i should say a refund of the board of adjustment, special exception fee and the refund for certain building permit related inspections for the existing structures under certain circumstances for two years from the effective date of this ordinance. This ordinance is not mandatory, but would allow a property owner the option under the city code to bring a structure into compliance with the city's zoning regulations. If that circumstance existed or to illegally encroach into easement such as a public utility easement. Other processes exist to for s and they are not proposed to be changed by this amendment. It was recommended to you by both the codes and ordinance and the planning commission on a five-0 vote on the dais. I'll just point out that our neighborhood housing community development department determined that the impact on regulatory barriers to housing development that this would be a decrease, that the land use and zoning opportunities for affordable housing development would increase by this. And probably the reason part of that is it allows for increases for expansion of homes to include additional land or house heating and cooled areas, which might be a garage. The impact on costs of development would -- is neutral and the impact on the production of affordable housing may actually increase. As I said before, this is something new that doesn't exist. Our current amnesty ordinance as I said is in place, goes back to the 1996 date. If you didn't have enforcement action after -- after 88 and existed before 86, there are provisions in code to basically grant a zoning variance by existence of meeting those certain criteria. This new ordinance would set up a rolling time period 25

years that if you don't comply with the zoning set back you can go before the board of adjustment, grant that special exemption in that case and so we're perpetually moving forward. And it actually adds more flexibility through time. Recognizes the old one, we don't change the old one, but provides this provision. With this ordinance it really does in the 15-year period, this two-year period, is gives this window to try to entice people to come in to bring the buildings into compliance. They would still go before the board of adjustment, still ask for that special exception, but both the fees associated with the building permit and the fees associated with the special exception could be refunded back if they actually complete the process. There would be a where they might actually have to pay a fee. If they kept calling for inspections and kept failing and failing and failing and failing, after those first two inspections, then yes, we would probably start charging a fee. We would not refund that. Or if they ask for an after hours inspection, they want we wouldn't grant the waiver of that. The regular inspection, like everybody else would have, is they're building a new building. They would be afforded an opportunity of getting that money back. We've talked to rec. , The home builder remodeling association in town. I'm not aware of opposition. I did have an call criticizing an ad for the code amendment, but I did not have direct connection with people. I know dale flat sheer, who has brought this to the forefront last year. And I think he has some concerns about the ordinance and he's beginning to share that with you. john joseph and kevin flahive are here and legal representatives for many of the owners and will probably also want to speak to you. Staff has drafted this ordinance not just to benefit fairview, but for all property owners in the city of austin that are single-family, two family and duplex owners which might be in this situation. Property owners on the east side, westside, northside and southside could take advantage of this. I'd like to point out one change to the ordinance that I want to make clear to you. joseph and flahive, they pointed out one place to make the ordinance a little clearer, on the -- I'll point out the page. Page 7 of 7 of the ordinance under paragraph b, line 7 that speaks right now and says applies only if a residential use for which the special exemption is sought. Is allowed in sf 3 or restrict sieve zoning district. This is under refunds and waivers. And we're changing the word the to a. And this is to clarify that if you do not need a special exception and that -- let's say you've enclosed your garage, you still have to meet the life safety codes, because we go in and check and make sure that there are two ways to get out of the garage, either by a window of adequate size and height off the ground or another door, you might have a smoke detector or something that might also be cird, that you could still be eligible for the refunds of those building permit fees if you just simply enclosed your garage. 9 percent of these where you just enclose the garage are already zoning compliant with the setbacks to the side and the front and the rear. So with that I'll pause if you have any questions. As I said, you do have a couple of speakers here this evening.

Morrison: I want to thank staff and everybody that's worked on this. I know it's been a big challenge and it started a long time ago. So this is great progress. I have one question. In terms of this two-year period to try and entice people to come in and take advantage of this opportunity, how are we going to get word out? I guess it's a little bit after challenge. We don't really know who this would apply to.

There would be at least one news agency -- I've already gone before the camera. It should be on channel 8 tonight. We'll do a press release through a public information office. If this actually gets approved, my office after speaking with watershed protection and code compliance department will be contacting all the affected property owners that are in the fairview neighborhood making them aware of this. Unless they've already -- some of them have already brought their buildings into compliance. So there's probably not a need in that case. But we know that there are auto least four individuals that haven't worked with dale or coats and roads, flahive's firm and we would work with them and try to bring them in. If they do get the permits within the two-year period it doesn't mean they have to be done with within two years, it just means they have to take out permits within two years. [One moment, please, for change in captioners]

I agree this is a good first step. I still feel there is much more work to be done because I feel there are a lot of folks being left out who are kind of in that same predicament of not sure how to get to the end point in the situation that they are in. And I think the suggestion of some type of, I don't know, some type of permit review process before you buy a piece of property is a good suggestion. I am in that exact situation today. My wife and I bought a piece of property and we are dying to start building our dream

home, but because the previous owner filed a demo permit for a church that burnt down on the property and the demo never closed the permit out, we are are stuck. With we are sitting in limbo and I have to give power of attorney to the demo company to refile a deme permit and close that permit out just so that I can start building my house. And it would have easily been resolved had we had some type of are review when the purchase agreement, so i think that is a great suggestion and I would look to talk to folks who want to be part of that. With that, I move approval, mayor.

Mayor pro tem moves to close the public hearing and approve the ordinance amending on all three readings. Seconded by council member morrison. Discussion. All those in favor, say " opposes say no? Passes on a vote of 7-0. Go to item 96.

Mayor and council, we can make the flyer in the utility bill happen. That is not a difficult thing. We actually did something with imagine austin so our department is not unfamiliar with that process so I we will be able to do that as well. At this timely introduce --

not to make it too worry, greg.

Yes, sir. We will point to a place on the city website. At this time I will introduce mr. john mcdonald. He is the manager over at plan review section that will start the appeal and the procedure, also, for standing and --

before we get started, i have to ask, before we begin the discussion, are there any questions for postponement or issues of standing that anyone in this chamber would like to raise have? Hearing none, we will begin with a report from staff.

Good evening, council members, john mcdonald with the residential review section of planning development review. The appellant betty trent is appealing the rfcc's modification request to increase the ratio 5% above the maximum allowable 40%. Granting appeal allow applicant to have a ratio of 35% or 3600 square feet or the maximum ratio for the site would have been 3,182 square feet. The appellant does not feel the rdcc strictly adhered to the ordinance by denying far modification and has that letter to that effect in your backup. Based on the information provided by the appellant, they request the rdcc's decision to be overturned and allow the applicant to be granted the duplex to build two story duplex with attached garage with an additional 5% decrease in f.a.r. any questions of staff?

We have a presentation from the appealing party, and the time limit will be 10 minutes. Are you the appealing party? Introduce yourself and you have up to ten minutes.

Is there power presentation going to be available? Is there staff here to do the powerpoint presentation? Ah-oh, maybe not.

I I apologize, I thought my staff person was going to make a longer presentation and the audio-visual person had to run downstairs for just a moment. If you would like to take something about it. There is only one person here, if you want to table this for a second. There is one person, i think, that can speak on the gas item if it's something --

how long is it going to be?

I think she ran down stairs to get something. She will be right back.

Mayor leffingwell: Without objection, council will table this item?

Yes. If you want to talk about gas first, that's fine with me. we are are going to start over here. That's the

problem, greg.

Sorry mayor and council. Like I said if you want to if you want the take the gas item -- she is just walking back in the room.

Mayor Jefferingwell: yeah.

Well, good evening, mayor and council members. My name is Betty Trent and I would like to thank you all for allowing us to take up some of your valuable time of issue of importance to us and to other homeowners in Austin. My husband and I are trying to -- terrific. My husband and I have been trying to start a new home in the Pimberton area and have been denied the increase and as our last appeal, we are here. We have been identified as sophisticated developers when we are homeowners, designer and architect who enjoy designing great places to live. We came to Austin in 1981 and have built a home every five years so there have been 7 total. We have always strived to be sensitive in each of the neighborhoods we built our home in and we wanted to build a final small home to retire to in a central neighborhood that was close to downtown within walking distance to restaurants, grocery stores, shops and the Shoal Creek Park. We found this duplex lot in Pimberton and thought it would be a great location to a small home we could retire to. There was existing duplex on this lot, built in 1967. We would like to replace that duplex with with a new duplex, so we are not adding density to this neighborhood. After permitting and developing those 7 sensitive and sustainable homes in Austin, we have been surprised and overwhelmed at the extent of the rules we have been asked to comply with and drawings and presentations we have been required to make. We have also found the process to be very inconsistent, arbitrary and somewhat discriminatory. We started in 2010 and last October we asked for far increase of increases that had been granted in this area, including one project we thought it would not be unreasonable because we have no neighbors on three sides of our property and are surrounded by three sides and one neighbor to the south has no objection. On the drawing that you see here, at the bottom of the page is Wooldridge Drive. On the right side is actually a piece of property owned by the City of Austin -- partly owned by the City of Austin, the teardrop piece of property you see here, it is sewer easement, and that is on the north and then we are a through lot with Oakhurst on the west side and so we have three sidebar property which is basically a street with no homes or structures on the side and only one neighbor to the south who has had no objection. This is actually the duplex that existed here before, when we started working on the property. What we wanted to do was to modify and enlarge the duplex just enough so that we could live there and these are the elevations that we had created. The one on the top basically shows what would be allowable and the one on the bottom shows what we would propose to do with the increase. Some of the differences occur in the roof over the garage because one of the conditions that have been arbitrary is the issue about whether a shed roof allows you to have habitable attic over a garage. So the drawing on the top shows how we would have an 18-foot shed dormer that would be able to have the gable roof over the garage to comply with the staff interpretation to date. In addition, there is a light increase to a corner of the house that you see near the front door on the left side of the long elevation. That's the 29th Street elevation. The shorter elevation is the Wooldridge Street elevation. We asked for this increase because we felt that it was reasonable, within the context of what had been happening in the neighborhood. We were asked what parts of allowable criteria were we meeting. One of the criteria to be consistent with the existing streetscape. On the left, you see the duplex that was there. On the right you see a duplex that is two -- three houses down from us and, again, you saw the elevation that we are proposing in this particular slide. So we are consistent with the streetscape in this area. We are also consistent with far increases to date. There have been increases 9% that have been granted in this area. The night that we were actually denied asking for 45%, the commissioner actually mentioned that perhaps Pimberton should change their plan amendment to show that 45% would be acceptable in this area and then we were denied. We are consistent with adjacent modernist construction. We felt there was a bias against the architecture of our house that was being used in irrelevant way as scale and massing was supposed to be a criteria, but in this case, this is the historic 1939 bomb house. It is actually maybe one of the older of the historic houses in this neighborhood. It is an art deco house. You notice it is white and stucco. There are other international style houses on this street. The one on the left of Wooldridge on our property. This is actually a slide showing properties in our neighborhood that surround our lot. Our lot is the one matched in the middle

there and the ones outlined with yellow -- highlighted with yellow are properties of which the houses are over 3,000 square feet, so to say that the houses in this neighborhood are much smaller is not really consistent with what you see here on this slide and those are just the ones within the radius that we were requested to provide to the city when we went to the rdcc. We are not showing any of the other houses and as you move south on this -- to the bottom of this slide, there would be more and more properties that would be over 3,000 square feet because pimbarton generally has more of the larger houses in the central austin neighborhood. Consistent with adjacent houses, masses and scale, this is a fourplex that happens down the street from us on mole, and when we talked to our neighbors, we identified 80 neighbors who were willing to sign letters of no objection -- I have a copy h. This slide shows 55 of those that we could identify by their address, when we originally started this process at the board of adjustment, we sent out letters asking people if they had no objection, and unfortunately, we department -- we didn't have a line item of what their address was. Some people put it on the envelope, some on the outside, but in this case we were identify 55, but we identified 55 neighbors who had no objection that this was a duplex and that we were going to ask for a far increase. Actually, that's -- this is just an example of the letter that we received from the neighbor who is actually our direct adjacent neighbor on the south. Part of the reason that we are asking for the increase in far has been the inconsistency of information that that we have gotten from the permitting staff. We have basically submitted these drawings three times to the building department for permit because we were told we had to do that to submit the drawings to the rdcc and to the historic landmark commission, that we had to provide contract documents, and each time we submitted those, we got different information from staff as to what was actually allowable within the far for a house in our neighborhood. Several issues came up, one of which of course was the shed roof issue over a habitable attic. What we would like to do is have the far increase include the space that would be in our attic, and, therefore, would not be an issue as to whether a shed or a shed door would be required on our particular project. (Buzzer alarming]

I am close to my time. thank you. Now we will hear from those who support the appeal. You have three minutes each. Susan ballman.

Good evening, my name is susan ballman, I have lived in pimbarton and was a dog owner for 13 years during the time. I feel I have gotten to know the neighborhood and many of the neighbors. We want and we need duplexes. I also know betty and jeff and I have known them off and on, not very well, but as acquaintances for ten years. They are not developers. They are a couple who want to live in the house they are building. They have renovated other peoples. Otherhomes. And I have been at one home where they did one on windsor and the houses have not been unusual. I believe you would love to have them as a neighbor. I would love to live downtown and be able to walk to social atmospheres around everything that everything at the w would offer me. I can't dream of affording downtown condo, and I look at a place like brakerwood and pimbarton as a place to live and I believe duplexes are the answer. Betty and jeff have done everything they need to do, go through the process, and consistently time and again, everything coming back to the city is contrary to other statistics. The far numbers are just one example of somethings that not consistent. So I ask that you listen to their situation with an open ear and listen to what is going on over the next decade, duplexes like this are going to be built, they are going to be presented, and it's time to get everything set in stone. Thanks.

Thank you. Next speaker is matt ragsdale. And you have three minutes.

Thank you, mayor and council. I was originally just going to feed my time to betty or susan, but since I've got time, I will give up personal and professional endorsement. Betty is my business partner and I have known her for over 25 years and I have just known she has always been very careful professional and talented and she is very smart and she wouldn't do anything that wasn't carefully thought out. And I know this has been both emotionally and financially difficult for her, so take that into consideration on your decision. Thank you. thank you. And now we will hear presentation by the respondent, the representative, and you have up to ten-minute presentation. And I don't know who the primary respondent is. So if you would just come forward. The respondent -- primary respondent will have ten

minutes and then the other speakers opposed will have three minutes.

Good evening, mayor, mayor pro tem, members of the council, my name is Blake Tolet and here to speak on behalf of West Austin Neighborhood Group. Joyce Baciano of Brakerwoods has put a map up there. Those show the far of the property surrounding this property. s are criterion of an rdcc decision. I am going to find of explain what our neighborhood group is doing here. The applicant came specifically on two meetings prior to the rdcc application -- actually the second one was after it filed. They specifically asked us to take action on this and we both times unanimously said no, as far as our support, this has nothing to do with with design. It has nothing to do with how nice of people they are -- and I like Betty and her husband. This has everything to do with this is a vacant lot. These people bought this lot and they had the duplex on it and bought it right during the interim of development regulations, prior to mcmansion. I remember Betty being at some of the hearings. They knew what they were buying. They knew the regulations coming to them. They -- this is designed -- this is about money, is what this is about. They want more square footage than the current code allows. They have been -- they went before the BOA adjustments on [indiscernible]. They also brought that and the two lot variance on this. They got the two lot variance setback but they didn't get the f.a.r. there. They had to go to h.l.c. Landmark and I think Joyce is going to talk about that, they went to the rdcc. I know the chair of the rdcc is here in the audience. He is not speaking with you but he is here to answer questions. Rdcc is a land use commission appointed by this council. We appointed them for their knowledge of mcmansion. They have had a lot of experience over the years in dealing with these kind of cases, these kinds of requests before. This was a unanimous decision after a lot of deliberation by your appointed commission. They weighed the evidence before them. This is not an arbitrary request. They have seen these -- they have seen these for years and there are distinctions that are drawn. They grant some. They don't grant some. I have been with that board upwards of ten times now. The neighborhood association -- what we have asked for doesn't happen all of the time. They look at every case individually. They looked at this case individually. They made a decision. We are asking you to oppose the decision by commission.

And I just want to -- again, this is one of the criteria that I was thinking that the rdcc is looking at [indiscernible] next speaker is Joyce Baciano and you have three minutes.

Can you hear me? Good evening, I am Joyce Baciano, I am with the neighborhood association. The board of trustees was asking for unanimous decision that is the board of adjustments and the [indiscernible] commission and the rdcc might decrease of far over the 40% allowed by city code and ordinances. The plan submit Ford brand new construction on vacant lot. The applicant introduced code compliant plan for 30% of the historic landmark commission at a special hearing February 2011, historic landmark commission unanimously preferred the 40% for a plan offering several suggestions to make the design less aggressive and the hlc [indiscernible] design was aggressive. If the design is not really appropriate in a national registered district. And I believe you have the minutes -- the amended minutes of the historic landmark commission in your packet. The residential design and compatibility mission charge is to design of compatibility, that the rdcc took note of in respect to the historic landmark's opinion is reasonable to expect. The neighborhood association board of directors [indiscernible] code compliance far plan and many of the adjacent homes are less -- are much less than 40% far and kishow you here, this one is .19 far. That is a house to the south. .2 Far. This is Fuji film. This is .3 far. The last time we were before the rdcc was to on point the .33 far that was granted to the duplexes that [indiscernible] showed you before. We still feel the persistent design is incompatible with the character and style of the homes in the national registered districts but we do support the compliance with city codes and enforcement of city codes. Respectfully ask you uphold the unanimous decision of the three boards and commissions and deny the request for an increase in far. I want to say we are not opposed to duplexes and we did not oppose the decrease in the rear setback that was requested appellant back in October of 2010 by the board of adjustment, but they saw what it is, it is a financial hardship. They can build to 40% far and still have a very nice project, and I would -- we would point to the houses across the street, 29 street. This is Brakerwoods, the boundary here, they are way under .4 far. So this is going to be a very big structure, even at [indiscernible].

Okay. the next speaker is steve hanaguchi and you will have three minutes. Kind of like that song.

Okay. I live two houses down at 2818 wood ridge drive. I have lived there 4 years. I know the neighborhood well, too. The neighborhood as that map shows is small houses, in spite of the houses get larger down the road. I have no objection to a duplex, to say. But this is not going to be a duplex. It's going to be a condominium and what's going to happen is we are going to have two houses on one lot. That's what I see, but regardless, in order to achieve this deal, they are going to need more room, and that's what they are asking for. The old house was -- you have seen pictures. That's what it was like. This new one is going to be much larger and it's going to include three garages, which are also going to be part of the deal and they are all going to be on that lot. Another I see is esthetic, this is the gateway to the pimberton heights neighborhood, which is on the national historic registry and supposed to be 1940s, '50s houses. There's going to be a modern house and it's going to be much larger than anything else that goes into the neighborhood and that will be the gateway, let's say of the neighborhood. If you look down the road, I don't oppose duplexes, but pimberton don't have any due mixes. There are hardly any duplexes in pimberton. And those people that live in pimberton won't allow it. It won't happen. If you look at the relative scale the fares that joyce put up there, you will see the ratio is in the 20s and 30s and they are asking for 45. Forty should be big enough. I mean, 40 is going to be outlandishly large, anyway, but that's law. That's the rule and that's what we are talking about. What is the rule? The rule is 40%. So when you take even the 40, it will be out of scale. But if you move it to 45, that scale gets even worse. And there are a lot of people who are invested in that neighborhood and it's not just their house. It's the whole neighborhood, and I believe that -- we don't have the pimberton association. That has been litigated or argued at these different hearings about who and what standing they have. They are not here, but I do believe that they do not want a large building like that as the entrance to the neighborhood. Finally, I do believe that the mcmansion ordinance was created for a specific purpose and it is to stop this kind of exceptions and what they are asking for is the exceptions to be the rule and we are trying to keep the rules as the rule [buzzer]

and so we are asking you do deny. thank you. Those are all of the folks signed up opposing the appeal. Now we have a three-minute rebuttal by the appealing party.

I need you to turn the I do appreciate it.

I feel like our project, because it is a duplex and because it is modern and unfortunately we did not think that is part of the criteria for denial or approval for a far increase for the rdcc. The same night that we were denied our project, increase project in pimberton in brakerwoods were approved for increases and the same night we were denied because the neighborhood showed up to say that we had bought our property and should have known better, the rdcc improved an increase for a project in which the owners just bought that lot in january and came to the rdcc for an increase in april. Again, we had an existing duplex on this lot. This is the site plan as opposed to the moving site plan. This is not going to be a particularly huge amount of square footage that is going to be added to the neighborhood. The original project was 2800 square feet, we are allowed 3100 square feet and asking 3600 square feet and we thought by giving this particular property three car garage, we would take three cars off of the street, so we are a little surprised to find that the neighborhood would be opposed to our having a garage -- garages that could take the cars off of the street. This is the style of the original house. It was considered modern or international. The style of the house that we are doing is not forbidden by the national historic district. New construction is not regulated at the national historic district level and, as you see here, the elevation, I can show you the elevations of the -- of the existing house from the slide, you can see the existing house that was 2800 square feet is not that large. I am going to flip through these quickly because I wanted to show the board to have consideration for these particular items and we have proven that we have no impact on our neighborhood's rear privacy, also no topographic impact, we sit slow to the street and we feel we are consistent with the streetscape and we are consistent with neighborhood scale and mass. The main increases we are looking for will actually face the open piece of property on the north and this is a slide where our property is, the car here is much lower on the duplex, which does exist, on the west side of our property on 29th and oakhurst. These are larger structures in our neighborhood. I will flip through these. This is an example of a drawing that

shows basically 340 square feet of what we are asking for (buzzer] that has to do with the shed roof versus the cable roof issue that is a permitting issue. thank you. Any questions? That concludes the appeal process and the floor is open for discussion or action by the council. Council member shade.

Shade: I have questions and they are probably for staff. I want to really get clarity on what happened during the hearings, the rdcc? Can staff address that?

You are welcome to tom forward as well. Go ahead. I just want to go through the criteria. Go ahead.

You want to ask questions of mr. burkheart. Mr. burkheart.

Shade: Sorry. I had forgotten they said you were here. But I think this issue of what the criteria is really important of what was said and I wanted to get your memo earlier today but the list I have here of recommendations to the planning team. Were those provided is?

Burkheart chair council member rdcc. I am not clear on your question.

Shade: I am going on the list under mcmansion y'all shall consider. We talked a lot about the style and issue of the duplex.

If you don't mind allowing me to reiterate some points I made to you. One comment that I would like to make is that we never object on style. In fact, we have one member of the commission that specifically specializes in a very modern style. She, if any, would be an advocate for a modern or international style. With respect to the items we consider, we always consider mass and scale. We always consider compatibility. We didn't feel at any time, and you can tell by the decision, that the applicant made an compelling case to grant the waiver. We consider all of the elements and requirements of the history of the applications that have gone before us and how they will all generate the impact and the neighborhood issues we are discussing on a particular case. Each case is actually addressed individually. We -- there is no specific bias for or against duplexes, style, or any particular applicant.

And I appreciate that. And you had talked about the lack of clarity in the presentation. I read the letter, but when I heard neighborhood opposition, I heard a lot about style. I heard a lot about it doesn't fit in or it's too big. And I was curious do you go down the punch list?

We don't work with a checklist. We have a fairly informal hearing. We do not say this, this, this. If that were the case, you would need anyone to evaluate -- you wouldn't need anyone to evaluate these things, but virtue you show up before the commission doesn't necessarily grant you a waiver. It is -- it's not subjective. Each of the commissioners listens to and understands -- listens to each case on an basis, and outcome is never certain for any applicant. We saw and we postponed a case that was substantially or obsten sively modern, and then granted the waiver. We regularly deny requests for far increases from houses that will always be characterized as traditional in style. So it truly is an individual situation with every applicant.

I think that creates consistency, then, of how it's applied. Talking about accountability or out of character for the -- those are all -- those could be much more subjective than it seems when you are looking at the consistency with massive and scale which seems to be a bit more objective. But I am not an expert so that's why I am trying to get a better sense. So when you are going through, you don't go down the list of things that i pulled from the -- from the mcmansion ordinance, where it says you shall consider recommendations of planning team. Is there a planning team that made recommendation that is were considered?

In fact, not in this case, I am aware of, no, ma'am.

They shall look at neighborhood design guidelines. Was that reviewed?

We don't specifically review -- we review every neighborhood guideline prior to every case. We generally are aware and in most cases, specifically aware of the [indiscernible] neighborhood approach and desire.

And the next on list is consistency of streetscape, which I don't know how you would --

remember, all I can say is that it was cleared by unanimous decision that the appellant or applicant did not make the case to grant the waiver in this case.

Shade: What are they there to make the case on? I guess I am trying to get to. What do you base the case on if you are not going to follow the checklist?

We do follow a -- we do follow the mandate and a charters of the rdcc. We do not have a specific checklist of bullet points or items to hit as we move down the list or as we move through the application.

Shade: Chris has some questions.

I have some questions.

First thank you for your service on the rdcc and for being here tonight. I know the hour is late. One point the applicant made is that she filed with with commission granting far request on several other cases and then denying this one, and can you just give us a sense of why it is that you would have granted other ones and then taken the unanimous position against this one? What is it that would get -- that would incline the collision to grant it, a waiver to the --

council member, not all the applications are granted with a unanimous vote or denied with with a unanimous vote, first of all. So there is usually some dissent with any particular application. With respect to -- with respect to our process, you need to realize that like design -- every case we look at is unique. It has unique characteristics. It has unique circumstances. It has unique requests. The simple fact, as I said to begin with, that a project happens to come before us doesn't mean that it's going to be granted a waiver. -- In some cases the discussion may evolve or may revolve around, you know, particular adjacent property issue. It may have to do with broader context. I will, to comment on council member shade's earlier request, in general council member, we do give some significant weight -- and to yours, also -- the immediate context. With respect to a neighborhood plan or something that's far and away are removed from the particular project doesn't have as much material impact on our deliberations as -- as adjacent property owners, specifically [indiscernible] adjacent property owners and input with respect to the adjacent floor area ratios and things of that nature, we typically will be talking about a that but we will also talk about, we rarely talk about materials. I don't recall, by the way, if there was a conversation on materials or anything else occurred in this particular case. And materials are mentioned, obviously. In this case, they were, but the crux of the decision had to do in this case as with almost every case, with the immediate context and the compatibility with the intent of the ordinance.

One argument in particular that the applicant makes that the -- there is an area immediately to the north of the lot, right there along 29th street that is subject to an easement. And if you are just going by the house, you wouldn't necessarily know that is not part of the lot, or we know it's not. But the applicant makes the case if that were counted as part of their lot, then they would have qualified. They wouldn't need to come before the rdcc because they wouldn't be bumping up against the far limit. Is that something that the board would take into consideration, or is that --

council member, no. Ordinarily would not. I do remember one case about a year and a half ago where

we made consideration of an adjacent vacant area that was in perpy tudy but we would not include that.

What is the rationale for that.

The rationale would be that it would give a particular applicant a relatively unfair advantage over another property owner in the city. The city needs to consider the area -- we normally always consider exactly the a areas that were designed by the commission, the individual's lot.

Mayor leffingwell: Council member cole.

Cole: burkheart you are the chair of rdcc?

Yes.

Cole: And you are here at 9:30 at night. Do you have a day job?

I do. I go back to it when i leave.

Cole: More than anything else, we want to say we appreciate your service.

Thank you.

Cole: That being said, we had some testimony about the national historic designation registry -- national historic registry and you gave us pretty clear understanding about why it doesn't matter if it's modern or not. I am trying to reconcile that with with the testimony we got about the other homes being historic. I am trying to understand that. ...

Let's say, the distinction is -- is really whether -- if it's in a national registered district, it's -- that's relevant to us and it's relevant to the historic landmark commission. But it may or may not be relevant to our discussions with respect to the style -- with respect to the house and the of a particular application. I mean, it wouldn't -- it wouldn't be before us if it could not be considered.

I understand.

So there is a -- there is a tier, a series of steps that need to be taken before we will get the case. In this case, one of those steps had to be at the hrc.

Okay e. thank you. Okay. Thank you. As much as I appreciate the testimony of the applicant, I alto appreciate the work of the other boards and commissions, including yours, the that you chair, and so, mayor, I am going to move that we approve the rdcc recommendation, which was to deny the appeal of betty trent.

Mayor leffingwell: Council member cole moves to deny the appeal. Seconded by council member morrison. Further discussion? Council member morrison?

Morrison: Thank you and i want to thank william. William and I were on the task force that created the collision that he now chairs a long time ago with the help of staff and a lot of people in the community and I just wanted to take a minute to remind everyone that the mcmansion ordinance was all about trying to find , 4 and had almost unanimous support on the task force for that, but then we realized that there were going to be -- and that should provide plenty of flexibility, but there were going to be times when the human eye could do that in evaluate mass and scale, that it was okay in terms of being compatible and that's what the c in rdcc stands for, residential design and compatibility collision. So, in

fact, the mission of the rdcc, I just want to -- to your point, council member shade, is to look at -- they can -- they can approve if the proposed development is compatible in scale and bulk with the structures on the vicinity and the things you were reading off, I understand, they should go along with the things that commission should consider and part of the reason that William wasn't clicking them off one after the other because topography, street scape, mass and scale, those are things they all take a look at holistically and in this, the neighborhood association didn't look at that and they don't have neighborhood guidelines, so I don't believe there is a concern in consistency and the decision these folks are making and I would like to point out -- how long has it been since the commission was created?

2006.

I think it was '6 or '07.

That was your very first meeting.

It was, that's why I was thanking him for doing that.

Yes.

And I believe this is the very first appeal that has come to the council and some of the language that's been used, you know, in terms of -- of not using proper criteria for rejection of the application, I just want to clarify that there is no assumption of approval of application. It is completely discretionary. So it's not that the application is submitted and the commission has to prove why it shouldn't be approved. It's the other way around. -- It's their discretion and that's why I definitely support denying the appeal.

Mayor Jefferingwell: Comment? Council member shade.

Shade: I appreciate those comments but I guess if I am an applicant, then I would use that criteria to make my case for why I should be considered. And when you look at f.a.r. Approvals that are within the general vicinity and when you see that topography, the fact that this home is -- the three sides of the street, I mean, it just seems like much of what is being talked about is style and neighborhood opposition, which I understand and is serious but it really isn't what the criteria is. So I could understand why the applicant would raise those issues.

Morrison: If I may, I think those --

Mayor Jefferingwell: Council member Morrison. Are you finished? Council member Morrison.

Morrison: Those are certainly some of the things that some of the folks were addressing but, in fact, the decisions are about what -- if it's compatible in bulk and scale and if you look at s around there, well, you might look the -- the square footage around there, there was 2100, 3,000, 3100 or s around 2, about half of what the -- of -- less than half of what is being requested, so that's what mass and scale is.

Mayor Jefferingwell: Council member shade.

Shade: It is another colloquy. Is that how you say it? But I was talking about in one of the slides, maybe you can put it back up. Of far, those approved in that vicinity, that day. I want to understand the difference.

Morrison: Some of those were actually 13 blocks away. is in the baciano showed us, which were

significantly less.

Shade: Okay.

Shade: In other words these aren't on the map. She showed the ones right next to -- like these.

The one at [indiscernible] is a few blocks away, 29th street is directly across from us and 29th street is directly across from us and then kerby is down the way. [indiscernible]

I believe council member shade has the floor.

Shade: I am just trying to understand the difference here. So what -- I can't see. Let me look at your map here. a showing the far, what is the one that is directly across the street -- it is directly across the street from us, it is on 29 and wooldridge on the southeast corner, so the two big blocks that are -- well, for you, that direction from the [indiscernible] ar looking at [indiscernible]

Shade: Yes, so it is .43. Yeah. I mean -- I mean, there are some that are less and some that are more. It seems very arbitrary to .. other comments? Motion on the table. Motion is to deny the appeal. All those in favor, say " opposed say no.

No.

Mayor leffingwell: no. A motion to deny passes on vote of 5-2 with council member shade and [indiscernible] martinez and shade. So the appeal is denied. Brings us to item number 97. [One moment, please, for 57600

the rate consultants identify the calculation of the amount of accumulated depreciation which equated to reduction in the amount requested of about \$52,000. Or by 46 cents. Because these related expenses are typically fixed cost in nature, it's appropriate for texas gas to recover the costs through the fixed monthly charge and we concur with this methodology. Generally and designing rates, the goal is to recover fixed costs through a fixed charge. These costs will not fluxate in usage. This concludes my presentation. Staff does recommend approval of the proposed ordinance recommending the rate surcharge for gas service. We do have representatives from the gas company present to make a presentation if so requested. Thank you.

Mayor Leffingwell: This is a public hearing, we do have larry graham here signed up and willing to answer questions. The only other speaker is paul robins who signed up neutral.

Three minutes. Mayor, council, citizens of austin, I'm paul robbins. There have been a number of reasons that this proposed gas utility rate increase could have been managed better. The first is that there's a lack of transparency. Earlier today, council voted on a schedule and procedure to increase electric rates at austin's municipal utility. Council's nine point resolution asked for input from the electric utility commission six times. Yet there's no one board or commission review for the interim gas rate increase or the large increase that took place in 2009. Second, both this rate increase and the one in 2009 go against city policy. The city began a progressive rate structure for electric rates in 1981. It was set up so that the more you use, the more you pay. This encourages conservation as well as reduces rate burden on low income people who do not consume a lot of energy. The city also has a progressive rate structure for water, wastewater, and solid waste. The fact that texas gas service has a flat rate defies standard practice in these other local utilities. Since the city is the company's regulator, it is pastime for natural gas customers to have the same rate policy. Third, it is technically and legally possible for the council to require that this new rate be charged in volume instead of as a fixed charge. It would bring the gas company in line with the other utility companies. It eludes me with why they have so lenient. For my own part, I've been told to be patient. Why if we just wait until the gas company files its

new rate case, things could change and we would have a better rate structure. However, it could literally be two years before this new rate goes into effect. And given the past, I've little reason to feel optimistic that such a rate will indeed occur. One last thing, if anyone here thinks that the \$6 increase is insignificant, give it to me.

Mayor Leffingwell: Those are all of the speakers that we have signed up. So I will entertain a motion on item no. 97. Which is to conduct a public hearing which we have done and consider the ordinance.
Councilmember Spelman?

Spelman: In a moment, mayor, I'll actually -- if you want a motion on the table [indiscernible] I would like to ask a clarifying question. I understand how this -- this particular adjustment to your rates is [indiscernible] I wonder if you could walk me through -- I was thinking about inverted block structures first of all for --

sure, I guess first of all we had a rate case and we proposed a rate design and we kind of negotiated with the staff and what was adopted was adopted by this council and the way it is for residential customers 75 customer charge, and then there's a volumetric charge of approximately 8 cents per unit of gas, for ccf gas. So there's both. I guess long story short, we believe that we want a mixture because we think if you go too heavily toward a volumetric component, if we put all of the volumetric, what it does for gas utility customers is it makes them pay much higher bills in the winter. It tags on when they -- when the usage is highest, when their bill is the highest, you make it higher. Then, you know, you lower the bill in January when people aren't using much gas. So we think that it really -- I think we have a fundamental disagreement with Paul on how to achieve conservation. The other piece of this is 55% of our residential customer's bill is the cost of the commodity. Okay? So we have an eight cent, you know, volumetric charge, a cost of gas that's -- ccf of gas right now is 52 cents. So the real incentive for folks to conserve, you know, to install a water heater or something that's more efficient, that's where they're going to save the money. They're going to purchase less gas. We think that it's a pretty built-in incentive right now to conserve.

Spelman: I understand your argument about the highest bills happening in the wintertime, box structure [indiscernible] but you would agree that inverted block structure would [indiscernible] to cause people to conserve.

Let me ask you what do you mean by inverted block structure.

Spelman: Increasing costs per ccf.

You know, I'm honestly not sure that I would agree with that, again, because the incentive is when people purchase less gas. That's where they're going to save the money. That -- that's where you incentivize it. I guess to be honest from the gas company's perspective, we like the customer charge because it evens out our revenue over the course of the year. Our costs don't differ in the summer than the winter. For us there's a lot -- but I do think for the customer there's no reason to make them pay the majority of the costs to us in two months. So we think it benefits the customer. Just -- just not to belabor the evening, you know, in El Paso, the city there had us change the rate design where there's no volumetric component and the customers pay 13 bucks a month or something, the idea is that it helps them in the winter. There's different schools of thought on this.

Spelman: This motion is the only thing lurking between all of us in this room and our families, so I better make it. But at some point I hope to have an opportunity to have a longer conversation --

I would be teach do that, absolutely -- I would be happy to do that, absolutely.

Spelman: I move to close the public hearing and to approve on all three readings.

Mayor Leffingwell: Councilmember spelman moves to close the public hearing and approve on all three readings. Seconded by councilmember morrison.

Morrison: robbins mentioned a rate case or a rate changes in the near term future, in the next couple of years, is that --

yes. What this is a test an interim rate adjustment. It -- what this is a test an interim rate change, it doesn't allow for wholesale changes of the rate design. Since we went on the road of filing this interim rate adjustment, we must file a rate case within the next three years, I believe. Something like that.

Morrison: Will that be an opportunity to further this conversation?

Absolutely, absolutely.

Morrison: Great, let's get with our families and friends.

Mayor Leffingwell: Councilmember riley.

Riley: A couple of questions. Larry, I know you mentioned el paso went with that rate, the customer charge. I understand it. Do you know of cities that have a progressive volumetric charge? Oh, I -- I don't. I'm sure there are. I think that you would find it less in the gas utilities than you do, I think it's more common with electric utilities.

Riley: Okay. Then if I could, I just have one question for rondelavan in the not too distant future we're going to be seeing a rate case coming forward from the gas utility. The question has come up, when we're talking about an increase in electric rates or water rates, we have -- we have boards and commissions that those routinely go through. What -- what board or commission would -- would review the -- a rate increase for the gas utility?

I would think that the -- that the most appropriate would be the resource management commission.

Riley: So you expect that -- you expect that it will go before a vrmc?

Uh-huh.

Riley: Okay. We will need to make sure that that happens. With adequate time for them to have a meaningful review. I guess that we may need to have a discussion about that. With the current electric utility rate case, we set up a public involvement committee and have an elaborate process for that. Seems to me we are probably going to need to give some thought to our whole process for reviewing a rate increase on the part of the gas utility.

Yeah.

Riley: Okay. Thanks.

Thanks.

Mayor Leffingwell: All in favor of the motion say aye.

Aye.

Mayor Leffingwell: Opposed say no. Passes on a vote of 7-0. Without objection we have -- 9:57 p.m.